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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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Transcript of Record.  
(IN THREE VOLUMES.)

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INTER-ISLAND STEAM NAVIGATION COMPANY,  
LIMITED, an Hawaiian Corporation,  
Plaintiff in Error,  
vs.  
GEORGE E. WARD,  
Defendant in Error.

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VOLUME II.  
(Pages 289 to 512, Inclusive.)

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Upon Writ of Error to the Supreme Court of the  
Territory of Hawaii.

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(Testimony of George E. Ward.)

Q. You are sure of that?

A. I am sure of that; that is what brought me up.

Q. You want us to understand that the only time that you were in the scale-house was coming up from the deck of the vessel and passing through the scale-house to get up here?

A. That is the only time I was at the scale-house. I had to leave the vessel, come down the gang-plank and go along the dock and walk up the steps to the scale-house.

Q. Is it not a fact that you were sitting in that scale-house for a quarter of an hour before the accident, yawning there?

A. No, sir. Sometimes the men passing there will stop and talk to me.

Q. I am not talking about sometimes; I am talking about the time of the accident.

A. No, sir; I don't remember any yawning. I went right down to where the trouble was.

Q. And your recollection is distinct that you got news of the trouble when you were on board of the ship, and got it by a cry of Keoke there is pilikia?

A. Yes.

Q. Now, then, Mr. Ward, what did you do after having left the deck of the vessel,—you left the wharf and climbed up, as I understand, to the conveyor, and passed through the scale-house and came down makai?

A. Yes, sir. I walked up the steps, and, passing through the scale-house, I went down there and saw [278—200] the cable the way it was off.

(Testimony of George E. Ward.)

Q. Was the engine stopped when you came to the scale-house?

A. I think it was stopped. I called to the boy there in the scale-house, the cable is off; I called to the boy, and he stopped the engine. Jimmie Akina was the boy that stopped the engine.

Q. What else did you do?

A. Why, naturally, I went down to where the cable was off to see what was the matter.

Q. And gave orders?

A. I sized up the thing, and gave orders about the crowbars, and seen I had sufficient slack.

Q. Seen you had sufficient slack, and got your crowbars? A. Yes.

Q. Now, tell us what, if anything, you did with the crowbars? A. Why, I assisted the men.

Q. You say, as I understand you, that you were standing with your right foot on the plank below the ties? A. Yes.

Q. And your left foot against the ties? A. Yes.

Q. Or on the ties?

A. Up on the ties, against the ties the same as I put that foot out like that (illustrating).

Q. Was it against the tie this way or on the tie.

A. Well, it is about the way you first had your foot a little while ago. Put your heel up against that place.

Mr. HEMENWAY.—This way?

A. The way Mr. Hemenway has his heel.

Mr. STANLEY.—That is the position, you remember? A. That is the position I was in.

(Testimony of George E. Ward.)

Q. And you were facing then—which way were you facing, makai, mauka or Ewawards, or how?

A. Towards Ewa.

Q. Your back really being inclined makai?

A. My back was going Waikiki.

Q. Back Waikiki, all right. Now, will you explain to the jury how, being in that position,—or first of all how was [279—201] the cable lying at that time the cable was off?

A. I have already shown you that.

Q. I want you to show it to me now?

Mr. DOUTHITT.—That is when he first got there?

Mr. STANLEY.—When he first got there.

(Witness illustrates.)

Q. Off the first four mauka pulleys?

A. Yes, sir; on the Ewa side.

Q. Now, then, standing in that position, can you tell us what you did with your crowbar—(question withdrawn).

Q. And whereabouts with reference to these pulleys, these four mauka pulleys was the cable lying when you saw it first?

A. Right in this position (illustrating).

Q. Right in that position, the cable at the foot of the pulleys? A. Laying on the flange.

Q. Laying on the plank, that would be the part below the groove? A. On the flange.

Q. I call your attention to exhibit 5—marked for identification exhibit 5, and ask you to indicate to the jury what you mean by the flange?

(Testimony of George E. Ward.)

A. Here (pointing to flare or skirt of pulley).

Q. That is you indicate, do you not, the point on the pulley below the curve?

A. Laying on the flange, yes.

Q. You indicate, do you not, Mr. Ward, the portion of the pulley below the curve?

A. Yes, sir; laying on the flange just below the curve.

Q. Now, with the cable lying down there, tell us how, with your standing with your right foot on the platform here, your left just inside, how you used your crowbar to get that up, to get the cable over it?

A. I had my crowbar here holding it on here. That is the position I was, Mr. Stanley. [280—202]

Q. You were holding it there? A. Yes, sir.

Q. You were holding it there between the fourth and fifth pulleys?

A. Yes, holding it on the fourth and fifth, where the base of the pulley is.

Q. That is all that you were doing?

A. That is all, holding it on, the men had got it up, the other men raised the thing up like that, and it was laying about in that position there.

Mr. DOUTHITT.—On top of the pulleys?

A. On top of the pulleys.

Q. On top of the four mauka pulleys?

A. On top of the four mauka pulleys. When it was just about going over these, it was just going over when that was the last I knew.

Mr. STANLEY.—When you got there, Mr. Ward, it was not on top of the four mauka pulleys, but was

(Testimony of George E. Ward.)

lying on the flange by the pulleys? A. Yes, sir.

Q. When you got there? A. Yes, sir.

Q. And then you and the men worked there for some time until you got it on top of the pulleys?

A. Yes, sir; it was on top of the pulleys. That is the last I saw of it, and it was just about going over when—

Q. You were not, then, Mr. Ward, trying yourself to pull that cable up over the pulleys?

A. Pull it up over the pulleys?

Q. Yes.

A. No, sir; I was not, I was on the mauka end, the bar was in there.

Q. And you just held your crowbar in position there to keep it in place?

A. Yes, I held the bar there.

Q. You were not straining holding on there?

A. I was just holding it down. [281—203]

Q. And then your crowbar slipped? A. No.

Q. Well, what happened?

A. The crowbar did not slip, Mr. Stanley. Why, if that crowbar had slipped, Mr. Stanley, I would not be here to-day in court.

Q. What slipped?

A. I told you before that I didn't know what happened.

Q. You don't know what happened?

A. I am sure that that crowbar did not slip. It did not slip. If it had slipped, I would have been laying on that platform.

Q. Then you don't know how it happened?



(Testimony of George E. Ward.)

A. I don't know.

Q. Didn't you answer to Mr. Douthitt that the crowbar slipped? A. What is that?

Mr. DOUTHITT.—No, he did not.

Mr. STANLEY.—I thought he did. I may be mistaken.

Q. Is it not a fact, Mr. Ward, that you were up there astride of those ties just immediately prior to your being—to your meeting with the accident?

A. No, sir; I was not nor I had not got astride of them.

Q. And had been astride of them at all up to the time that you were hurt? A. No, sir; I was not.

Q. You claim, do you not, in this case, Mr. Ward, that the cable struck you and hurled you to the ground? A. The cable did strike me, yes.

Q. Will you explain to the jury how, if you were on the inner side, the Waikiki side of that cable that cable struck you?

A. Yes, sir; because I felt the blow when I was in the air.

Q. Will you explain how, with the cable Ewards— A. What is that?

Q. Will you explain how, with the cable Ewa of you, you here with the crowbar, how that cable struck you and knocked you overboard?

A. Well, I think I can explain [282—204] that very plain, Mr. Stanley. If you pry with a crowbar in this direction, why the bar will naturally send me ahead of this cable, and that is where I got the whack between the legs when I was in the air. I

(Testimony of George E. Ward.)

felt that whack all right when I was in the air when I was looking for something to hold on to. Do you understand that, Mr. Stanley?

Mr. STANLEY.—I don't understand how it happened at all. Do you understand what the witness means, genetlemen?

A JUROR.—Yes.

A. Here would be one hand, and then this thing hurling me that way, naturally hurling me ahead of the cable.

Q. What hurled you?

A. I don't know what. I told you that I was thrown ahead of the cable, and I do remember getting that whack in between the legs; I do remember that, Judge Stanley.

Q. Is not this a fact, that you were astride of the cable? A. No, sir.

Q. Using that crowbar trying to get this cable back onto the pulleys, trying to work it back over these pulleys, when the cable slipped and struck you between the legs and hurled you down?

A. Mr. Stanley, there is no need of a crowbar getting a little thing over that little distance; a boy is there all day long lifting that from fifteen to eighteen inches high.

Q. Then, why is it necessary to take a pry if all day long from seven o'clock to five at night a boy eighteen years old was capable of lifting it?

A. That thing being in such a filthy state from grease and everything else you will naturally use a crowbar; you are not going to use your hands.

(Testimony of George E. Ward.)

Q. Didn't you testify that when you got down there to the scene of the accident that you found the cable on the flange of [283—205] the pulleys?

A. Yes, sir; laying on the flange.

Q. And you ordered crowbars and then it was put back? A. Yes.

Q. Do you mean to say, now, that it was not put back by means of crowbars?

A. Yes, crowbars was used.

Q. Now, will you tell the jury the necessity there was for using crowbars?

A. I will. Well, the thing was in such a filthy state from grease that you will not use your hands.

Q. The only necessity was to save your hands from getting dirty?

A. I didn't say to save them from getting dirty. The crowbars had been used there ever since I have been on the coal-conveyor.

Q. Or to save them from getting a scratch, we will say, from the roughened condition of the cable?

A. Yes, sir; we have all had that experience; I have been pricked with the wires on my hands pretty hard.

Q. The only reason you did try to use crowbars there,—there was no necessity for it you say, but the only reason you used a crowbar there to lift this cable back was to save your hands from injury, or getting dirty? A. Oh, we always use a crowbar.

Mr. STANLEY.—I move that the answer be stricken out as not responsive.

The COURT.—Motion granted.



(Testimony of George E. Ward.)

A JUROR.—I wish you would explain again about having the bar behind this pulley and pulling back.

A. Do you want me to show it to you?

Mr. STANLEY.—Just explain it.

A JUROR.—You had one foot down here and one foot down here?

A. I was thrown clean off the thing down off the wharf. [284—206] There is a face on these things and this thing revolves and it has four lugs for bolts and this thing sets in it and you put your bar against the face of this thing.

A JUROR.—You had your bar against the base?

A. Yes.

Q. And the strain would be this way if you had your bar over the rope?

A. The bar was over on the other side of the rope, and the point on the base I remember.

Q. And you were holding onto the bar?

A. Yes, sir.

Q. And you were thrown over this way?

A. Yes, I was fired clean off.

Mr. STANLEY.—And you say, Mr. Ward, that you remember in your flight through the air the cable striking you between the legs?

A. Yes, sir; I felt something hit me between the legs.

Q. And you recall that distinctly now?

A. I still remember that.

Q. It was a case there where you went through the air with sufficient time to have that point distinctly marked on your memory?

(Testimony of George E. Ward.)

A. I felt the pain, the sting.

Q. As I understand you, you were hurled ahead of the cable?

A. I don't know if I were hurled. I was telling you I went over the side, I do not know what done it, Mr. Stanley, but I remember that sting in between my legs.

Q. You went over the side. We won't say hurled, but you went over the side ahead of the cable, and then the cable struck you between the legs, is that right?

Q. It is the cable that struck me between the legs, I remember that, and from the scratches on my leg I know it is from the wire.

Q. You were thrown ahead of the cable over the side, and then the cable struck you when you fell?

A. The cable [285—207] must have struck me, and I felt like that, the hit of that just the same as I felt that (illustrating by slapping his thigh).

Q. You testified that this box weighs five or six hundred pounds? A. About that.

Q. Have you ever weighed it? A. No.

Q. How do you know? A. By the wood work.

Q. Is it not a fact that it weighs nine hundred pounds?

A. I don't think it ever weighed nine hundred pounds in my time.

Q. Just by looking at the wood work you sized it up to be about five or six hundred pounds?

A. Yes, about that.

Mr. STANLEY.—This dolly with the single

(Testimony of George E. Ward.)

groove, I ask that that be marked for identification.

The COURT.—It may be marked for identification as Defendant's Exhibit 7.

Mr. STANLEY.—Mr. Ward, you claim in this case damages for medical expenses claiming that you have been and still are obliged to receive medical attendance from the doctor. What medical expense have you incurred?

A. Paying the doctor.

Q. What else? A. Buying alcohol.

Q. Buying alcohol. Is it not a fact, Mr. Ward, that you were attended, after your accident, by Dr. Straub of this city at the Queen's Hospital, and that your medical expense for a period of eight months after your accident was paid by the Inter-Island Company?

A. I don't know whether they have been paid, I don't know anything about it. I don't think the Inter-Island was ever asked to pay. The Inter-Island should have put me, as I understand it, into the marine ward, and by my being put in the marine ward I would not have caused the Inter-Island Company one cent because I am a marine man, and the money never bothered me, because all the time that I was in the hospital [286—208] the Inter-Island paid me my wages, and I didn't know it till long after I was home. Now, with regard to this expense, they were never asked to pay this doctor bill and they told my father they will pay the doctor, that they would pay the expense, and they would pay Dr. Straub.

Q. So your doctor's bills were paid by the Inter-

(Testimony of George E. Ward.)

Island? A. Yes, sir.

Q. By the steamship company. Now, you have also volunteered the fact that during your—you know, do you not, that you were attended by private nurses in the Queen's Hospital? A. Yes, sir.

Q. And those were paid by the Inter-Island, two private nurses?

A. I have never got a bill from them.

Q. Do you know that they were paid by the Inter-Island; did your father tell you, or anybody else?

A. My father never told me.

Q. Did anybody else tell you?

A. Straub told me that he was paid, and I think all them nurses goes in Dr. Straub's account; I think that is the way it is run.

Q. Now, you have volunteered the fact that your wages were paid and it is a fact, is it not, Mr. Ward, that the Inter-Island Company paid you at the rate of five dollars a day up to March 8th of 1913, and that you brought suit against this company without seeing them before at all on March 10th?

Objected to. Question withdrawn.

Q. Is it not a fact that up to March 8th, Mr. Ward, the company paid your wages at the rate of five dollars a day and that you brought suit on March 10th?

A. I did, yes, sir; but I had reasons for it, Judge Stanley, if I can answer you.

Mr. DOUTHITT.—You have got a right to explain it.

Mr. STANLEY.—Mr. Ward, did you have a conversation with Mr. [287—209] Gedge at the

(Testimony of George E. Ward.)

Queen's Hospital in this city stating how this accident occurred? A. No, sir; did not.

Q. You have never spoken to Mr. Gedge?

A. I spoke to Mr. Gedge; he came up and seen me once while I was in the hospital.

Q. You didn't speak to him about the accident or how it occurred?

A. No, neither did he to me.

Q. That question was not discussed?

A. That question was not discussed, no. That was not worrying me at that time; I was worrying after my ear—

Q. But Mr. Gedge went up to the hospital to see you and there was no talk at all about the unfortunate nature of the accident?

A. He told me right then I cannot talk long, and he said I tried to be up here to see you before but was never allowed. That was all that he said at that time.

Q. I am not asking about whether your conversation was long or short but was the matter of your accident and how it happened referred to by you or Mr. Gedge on the occasion of his first visit to you?

A. No, sir.

Q. Didn't Mr. Gedge ask you, "George, how the hell did this happen" or words to that effect, and you said to him, "I don't know?"

A. What is that?

Q. How the hell did this happen, why didn't you lift the weight, and you said I don't know, I was a



(Testimony of George E. Ward.)

fool I wanted to save time .

A. No, sir. No siree. I never heard them words from Mr. Gedge in my life, "How the hell," neither did Norman Gedge ever use the words, "How the hell" to me.

Q. He never used that expression ?

A. No, sir, he did not. Neither he has never used such words to me, I will say that he,—if he asked me the question he asked it in a proper manner. I never heard the man use that word. [288—210]

Redirect Examination of GEORGE E. WARD.

Mr. DOUTHITT.—On your cross-examination in response to a question by Judge Stanley you said that you paid out some moneys for medical attendance, did you? A. Yes, sir, I did.

Q. Have you receipts for those?

A. Yes, sir, I have.

Q. And to whom did you pay the money?

A. To Dr. Straub.

Q. Ninety-nine dollars and fifteen dollars, August 28, 1913, and March 31st, 1913. I will ask you if those are the receipts, Mr. Ward? A. Yes, sir.

Q. That was paid by yourself out of your own money? A. Yes, sir.

Q. And for medical attendance by Dr. Straub on you? A. Yes, sir.

Mr. DOUTHITT.—I offer these in evidence.

Mr. STANLEY.—No objection.

The COURT.—They may be received in evidence and marked respectively Plaintiff's Exhibits "B" and "C."

(Testimony of George E. Ward.)

Mr. DOUTHITT.—Mr. Ward, do you know what it was that threw you through the air until you came to the dock below?

Objected to as not proper redirect examination.

A. No, sir, I do not.

Objection sustained.

Q. At the time of your accident what did the cable do, if anything?

Objected to as not proper redirect examination.

Objection sustained. [289—211]

*In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.*

JANUARY TERM, A. D. 1914.

GEORGE E. WARD,

Plaintiff,

vs.

INTER-ISLAND STEAM NAVIGATION COM-  
PANY,

Defendant.

June 3d, 1914.

[**Testimony of Norman E. Gedge, for Plaintiff.**]

Direct Examination of NORMAN E. GEDGE, called  
for plaintiff, sworn.

The CLERK.—Your name, Mr. Gedge, please.

A. Norman E. Gedge.

Mr. DOUTHITT.—Mr. Gedge, you are the secretary and treasurer of the Inter-Island Steam Navigation Company? A. I am.

(Testimony of Norman E. Gedge.)

Q. And you were the secretary and treasurer of that company on the 8th day of July, 1912?

A. I was, yes.

Q. Besides being the secretary and treasurer, you are the general superintendent of the Inter-Island Steam Navigation Company, were you not, Mr. Gedge? A. No, sir, I was not.

Q. You were subpoenaed yesterday on behalf of the plaintiff to produce a certain three-quarter-inch, six-strand, nineteen wire steel cable which was in use and operation on the coal-conveyor of the Inter-Island Steam Navigation Company, on the 8th [291—213] day of July, 1912, were you not, Mr. Gedge? A. I was, yes, sir.

Q. Will you kindly produce the cable?

A. I cannot.

Q. Where is it?

A. I don't know, probably used up in concrete work and on ropes and given away to captains of coal vessels on request.

Q. That cable was at the coal-conveyor of the Inter-Island Steam Navigation Company, was it not? A. No, sir, it was not, I don't think so.

Q. What? A. It was not.

Q. Don't you remember that the cable by which Mr. Ward was injured was right outside of the engine-house on the top of the coal-conveyor of the Inter-Island Steam Navigation Company?

A. No, sir.

Q. It was not? A. No, sir.

Q. When was that cable given away?



(Testimony of Norman E. Gedge.)

A. Why, I cannot tell exactly when it was given away. Those old cables are cut up and given away. As I say, hardly a coal ship comes in but what the captain asks if we are making any use of the old ropes and they ask for them and get them, too. They use them.

Q. Was the cable given away between the last trial of this case and this case, Mr. Gedge?

A. No, sir.

Q. Do you mean to state that as a matter of absolute knowledge that it was not?

A. Yes, I am satisfied that it was not.

Q. How long before the last trial of this case was that cable given away?

A. I cannot tell exactly. As I said before, the captains of the various ships request pieces of cables or they use it for putting in concrete. We have no further use for it than that and we don't keep them.

Q. At the last trial of this case, Mr. Gedge, I will ask you as a matter of fact if there was not on the dock upon which the [292—214] coal-conveyor was constructed a cable lying near the engine-house of the coal-conveyor?

A. Yes, sir, there was.

Q. There was?      A. Yes, sir.

Q. Was that given away, too?

A. That has been given away, also, yes.

Q. Have you any record in your office showing when the cable, the particular cable which you were subpoenaed to produce was given away?

(Testimony of Norman E. Gedge.)

A. No, I have not, we keep no record of that. It is just like so much junk.

Q. You knew at the time when that cable was given away—Who gave it away, Mr. Gedge?

A. I probably told the captains of the ships to help themselves.

Q. You knew at that time—Was that given away at the time that Mr. Ward had brought the suit against the Inter-Island Steam Navigation Company? A. It was not.

Q. You are sure of that?

A. I am sure of it, yes.

Q. But you have no data, no record of it in your books, and you are now speaking from independent recollection?

A. We have no record, we don't keep a record of any of the old stuff that is taken off the ships or the conveyor or any other thing.

Q. I see that you retain down there these old pulleys and dollies, do you not?

A. Those things were found down there when Mr. Ward made the statement that wooden pulleys were in use there. I had Mr. Sheedy hunt around and pick up these few things.

Q. You don't give those things away?

A. Yes, we are glad to give them away if anybody will take them but nobody will take them. They were probably thrown over in the rubbish heap.

Q. Was the cable that was lying there near the engine-house or your power-house on the coal-conveyor, was that cable one of the cables that had been

(Testimony of Norman E. Gedge.)

worn out by use on the coal-conveyor, Mr. Gedge?

[293—215]

Objected to as incompetent, irrelevant and immaterial.

Objection sustained.

Q. And do you not know, Mr. Gedge, how long before the last trial of this case, which occurred on the 13th of June, the beginning of the trial, you don't know how long prior to the time, the 13th of June, 1913, it was that this particular cable which injured the plaintiff in this case was given away?

A. No, I do not. We have no use for those things and there was no reason why there should be any record kept.

Q. You knew that a man had been injured there by reason of the cable, did you not?

A. No, I did not. I know that Mr. Ward was injured.

Q. Don't you know that Mr. Ward was injured?

A. Yes.

Cross-examination of NORMAN E. GEDGE.

Mr. STANLEY.—Mr. Gedge, you say this cable, which was in use at the time Mr. Ward was hurt was not given away at the time Ward had brought suit, what do you mean by that? I understood you to say that?

The COURT.—It had been given away prior to the last trial.

A. It was given away previous, yes.

Mr. STANLEY.—Now, Mr. Gedge, when did you first learn that Mr. Ward contemplated bringing

(Testimony of Norman E. Gedge.)

or making a claim against your company?

A. I never knew that Mr. Ward contemplated bringing any case until the papers were actually served on the company. I did not know anything about it.

Q. And that was how long after the accident, Mr. Gedge?

Mr. DOUTHITT.—The papers will speak for themselves. [294—216]

Objected to as already testified to.

Objection sustained.

Mr. STANLEY.—And I understand you say you knew nothing and the company knew nothing until the papers were actually served on your company of any claim Mr. Ward was going to make, did you?

A. The company for some time knew nothing about it at all.

Q. Mr. Gedge, if you had learned that claim was to be made would you have preserved that cable?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained. Exception.

Q. I understand you testified, Mr. Gedge, that the only reason this cable was not preserved was because the company had no use for it?

A. Yes, sir.

Q. Other than what you have stated?

A. Yes, sir. [295—217]

[**Testimony of George E. Ward, for Plaintiff  
(Recalled).**]

Direct Examination of GEORGE E. WARD,  
Recalled.

Mr. DOUTHITT.—Now, Mr. Ward, will you make your statement in regard to—make any correction which you desire to make in your testimony?

A. Yes, sir, there is one correction I would like to have made, your Honor, in reference to Mr. Stanley asking me a question. I must have misunderstood what his meaning was. Now, he asked me as we were putting in a new cable in its proper place, he asked me the question why did the cable, as I understood him, why did the cable come off, and I told him I did not know. That is true I did not know why that cable come off, but my attorney asked me yesterday—

Mr. STANLEY.—Who?

A. My attorney asked me yesterday in reference to the coming off of that cable and he said that I did not say that I did not know why that cable come off. I told him, no, I did not say that, your Honor. I told him that I did not know the cause, the reason why that cable come off, but I knew that that cable had come off and had carried me, bar and all, down on the wharf. That is I misunderstood him. I thought he asked me about a point and I thought his point was the reason, the cause of that cable coming off, and I said I didn't know.

Mr. DOUTHITT.—The cause of the cable coming



(Testimony of George E. Ward.)

off at what particular time?

A. As we were putting the cable back in the particular position.

Mr. STANLEY.—I don't think there is any misunderstanding.

Mr. DOUTHITT.—I thought there was.

Mr. STANLEY.—At the time of your accident, Mr. Ward, just prior, during the operation of getting the cable back, the weight near the drum was not lifted?

A. At the time that I was putting the cable back the weight was not lifted up, no, sir. [352—274] the weight was not lifted up.

Mr. DOUTHITT.—We rest, your Honor.

Mr. STANLEY.—At this time, your Honor, we desire to move for a nonsuit, that the plaintiff be nonsuited upon the following grounds: that the plaintiff has failed to show that the defendant, the Inter-Island Steam Navigation Company was guilty of negligence as charged or at all; second, that the proximate cause of the injury to the plaintiff was his own act; third, that the evidence clearly shows plaintiff to be guilty of negligence which not only contributed to the accident but without which the accident could not have occurred; fourth, that the evidence further shows that the plaintiff assumed all risks of the employment which resulted in the accident.

We do not desire to argue the motion at the present time. We are ready to submit it without argument.

(Testimony of George E. Ward.)

The COURT.—The motion for a nonsuit is denied, because of the decision of the Supreme Court in the previous trial of this case.

Mr. STANLEY.—Gentlemen of the Jury: I desire to outline to you what we expect to prove. We claim, of course, that it is not our fault, that this accident could not have occurred unless Mr. Ward had been guilty of gross negligence and fool-hardiness. We expect to prove that Mr. Ward at all of these times, and I am inclined to believe that it has been established by the plaintiff's own evidence, that at the time of this accident and for some years prior thereto Mr. Ward was in charge of that coal conveyor, that coal plant. He helped to construct it, was responsible for the construction of all the steelwork, including the laying of the cable, trolleys and everything else, and was [353—275] thoroughly familiar with that plant. He knew, for instance, that there was no railing or platform around the makai end of it and continued to work there for several years with it in that condition. We expect to prove to you, gentlemen, that no complaint was made at all, to Mr. Gedge or anybody else about the condition of the cable, that the cable was and had been in use for some little time and was naturally to some extent worn on the outside and showed some signs of usage, but it was a good cable and in fit condition to use and there was no necessity to take it out. That is, was doing good work. As I say, no complaint whatever was made about that cable to Mr. Gedge or to any of the officers of the company

(Testimony of George E. Ward.)

and they had no notice that there was any necessity to remove that cable. We undertake, also, to show, gentlemen, that on the occasion of Mr. Ward's accident that Mr. Ward was not down on the coal ship as he says, but he was at the scale-house talking with some witnesses whom we will produce before you, uarning, spending his time that way; that he was called to "George pilikia," and that the cable engines were immediately shut off, steam was immediately shut off and the cable stopped. That Mr. Ward went down there, gentlemen, and picking up, I believe, a crowbar, as he went down, with several other men, heard that the cable was then off its set of eight pulleys; that the pulleys on the head, the mauka side of the eight, on the Ewa side of the conveyor. That Mr. Ward got up on those ties, the ties being about the width of four feet standing in a position facing makai, or Eastward; that he got a crowbar and was holding a part of the cable down or attempting to pry it back over the pulleys and something slipped, the crowbar slipped or something, and Mr. Ward was hurled down below. That at the time that Mr. Ward was in this position on these ties at the height of some twenty-five feet from the ground he was warned by one of his fellow workmen that there would be pilikia if he attempted to put the cable back in that way [354—276] and he said "never mind," and went ahead with it and the next thing we knew he was over on the wharf below. We claim, gentlemen, that, while there was no railing here at that time or guard-rail,



(Testimony of George E. Ward.)

but at the place if a man exercised ordinary care and prudence as under the evidence shown by the plaintiff the cable was in such a condition as to slackness that it could have been put back by a boy, or if it was taut that the weight could have been lifted. We claim that our company has provided the means of getting all the slack of the cable that is necessary; that the company has provided a means that Mr. Ward knew of, that he had been running that coal-conveyor, as I say, for years and deliberately forebore to use what the company provided, and in either case, **whether there was sufficient slack** without doing it so that it could be put back by hand, or whether it was taut and you had to put the weight back and the weight was not lifted up Mr. Ward would be guilty of negligence, it would defeat his recovery in this case. We claim that the proximate cause, which the Court will instruct you as to, the real cause of Mr. Ward's accident was his own negligence in attempting to restore the cable and putting himself in the position in which he was and we will ask a verdict at your hands on the evidence submitted.

**[Testimony of Nunu, for Defendant.]**

Direct Examination of NUNU. called for defendant,  
sworn.

Mr. STANLEY.—Nunu, where do you live?

A. At Kalihi.

Q. In Honolulu?      A. Yes, sir.

Q. Do you know Mr. Ward, the plaintiff in this case?      A. Yes.

(Testimony of Nunu.)

Q. Do you remember the fact of his being hurt at the coal-conveyor [355—277] of the Inter-Island Steamship Company? A. Yes.

Q. Do you know the date of that accident?

A. I do not remember the date.

Q. Well, about how long ago was it?

A. About a year, perhaps.

Q. Now, where were you at the time that Mr. Ward got hurt?

A. I was with him, he went down ahead and I came near going over myself.

Q. Now, where did this accident occur?

A. Well, he got hurt where he met the accident.

Q. Well, was he hurt in this building or where was he hurt, where did the accident occur?

A. Where he fell.

Q. Where did he fall on King Street, outside this building or did he fall on the waterfront, whereabout?

A. Down at the Inter-Island coal-conveyor.

Q. And from what part of the coal-conveyor did Mr. Ward fall? A. At the turn.

Q. Well, now, how many turns or curves are there on the coal-conveyor? A. Near the eight pulleys.

Q. Now, I will ask you do you recognize this as being a model of the makai end of the coal-conveyor, calling the witness' attention to the model which has been used in testimony? A. Yes.

Q. Well, now will you come down here and show us if you can—do you recognize this, too, as the makai end of the coal-conveyor? A. Yes.

(Testimony of Nunu.)

Q. Now, whereabouts was Mr. Ward standing just before he fell?

A. He was about in this position (illustrating).

Q. What foot had he there?

A. His right foot was here—his right foot was inside of the rail.

Q. And where was the other foot?

A. And his left foot on the outer edge—his right foot was inside of the track Ewa of the Waikiki rail, on the Ewa track, opposite the point marked [356—278] A, and his left foot on the outer edge of it, Ewa of the Ewa rail of the Ewa track.

Q. And at the time that you say that Mr. Ward was in that position where were you?

A. I was about in the same position except I was further makai.

Q. And which way was Mr. Ward facing?

A. Facing mauka.

Mr. DOUTHITT.—He was facing mauka?

A. I was facing mauka.

Mr. STANLEY.—Well, were you facing in the same direction as Mr. Ward, or in a different direction? A. I was facing mauka.

Q. And which way was Mr. Ward facing?

A. He was facing mauka, he was trying to get the cable back onto the pulleys.

Q. Well, now, after seeing Mr. Ward as you place him on the ties what did you next see?

A. He wanted me to go down and lift the weight so as to get the slack.

Q. Who wanted you to go and get the weight?

(Testimony of Nunu.)

A. I wanted to go down.

Q. Did Mr. Ward say anything to you about lifting the weight to get the slack? A. No.

Q. Then what did you say to Mr. Ward?

A. I told him not to use the crowbar to pry the cable out, you would have to go down and lift the weight up first to get the slack.

Q. And what did Mr. Ward say to that?

A. He said it was all right there was sufficient slack there.

Q. And was anything else said? A. No.

Q. What did you next see?

A. Well, after George fell off the conveyor we went and lifted the weight up.

Mr. DOUTHITT.—I move that that be stricken out as not responsive.

The COURT.—It is so ordered.

Mr. STANLEY.—Did you see anything happen to George after you had seen him in this position astride of the track?

A. He [357—279] went after the crowbar himself.

Q. Where did he go?

A. I gave the crowbar to him.

Q. Well, after he got the crowbar what did you next see?

A. Well, I told him that we could not replace the cable, it seemed to be caught and for us to go down and lift the weight up and get the slack and he said no, there was sufficient slack there and started to handle the crowbar and over he went.

(Testimony of Nunu.)

Cross-examination of NUNU.

Mr. DOUTHITT.—Who had hold of that crowbar? A. George.

Q. Didn't you have hold of it too?

A. Kaimi and I hold a crowbar.

Q. What was Ward doing?

A. Well, he had a crowbar and was trying to pry the cable back.

Q. Who had the crowbar and was trying to pry it back? A. George Ward.

Q. And you had a crowbar, too, didn't you, the same crowbar that George Ward had?

Objected to.

A. He had one crowbar and we had another crowbar.

Mr. DOUTHITT.—Oh, there were two crowbars there? A. Yes, sir.

Q. Now, who had the crowbar that George Ward had, did you have hold of that crowbar? A. No.

Q. Who did? A. Mr. Ward did himself.

Q. Nobody else but Ward held that crowbar?

A. Why, I held it too.

Q. Who had the other crowbar?

A. Kaimi. [358—280]

Q. And who else? A. Kaimi, Kalai and Kalau.

Q. Kaimi and Kalai had one crowbar and you and Ward had the other? A. Yes.

Q. And you and Ward were pulling on the cable or were you holding it in position?

A. Just steadying the cable.



(Testimony of Nunu.)

Q. Now, Ward had his left foot up like that on the tie didn't he?

A. Well, he had his foot up on the rail and we were holding the crowbar down against the cable and the crowbar slipped and over he went.

Q. Did the cable leave the pulleys?

A. Yes, the cable slipped.

Q. The cable shipped out of these entire pulleys and carried overboard, didn't it?

A. It is when the cable slipped off the pulleys George fell over down to the dock below.

Q. Ward still had the crowbar in his hand as he went overboard down to the dock below? A. Yes.

Q. Now, Ward had one foot up like that holding that cable in position, didn't he?

A. He was putting his foot up that way and holding the crowbar down against the cable and was in the act of replacing the cable, pushing the cable back when the cable slipped off the pulleys and knocked both Ward and the crowbar over.

Q. And he had his left foot up like that towards the sea, holding it in position as I am just now?

A. Yes.

Q. And his right foot was down on the planks here that run right out at the head of this coal-conveyor, right here, was it? A. Not there.

Q. Where was it? A. On top.

Q. He was straddled like this, was he, looking off, trying to hold the cable in position, was he?

Objected to. [359—281]

(Last question read.)

(Testimony of Nunu.)

Mr. DOUTHITT.—He had his left foot up on the ties, did he, like that, holding the cable in position and you were there with Ward holding it with him?

A. Yes.

Q. And he was facing north, was he?

A. I was facing mauka and George was facing makai.

Q. Didn't you testify here a few moments ago that George was facing mauka and that you were facing mauka?

A. Well, I was facing mauka and he was facing makai.

Q. George had the left foot on the ties facing makai, where was his right foot?

A. Well, he was facing the cable when he was trying to replace it when he fell over.

Q. Sure he was facing the cable, but he was not facing makai, was he?

Objected to.

Q. Was he facing makai?

A. He (indicating George Ward) was facing makai.

Q. And where was his right foot?

A. About the position that I am in now facing mauka (both feet together on floor).

Q. Facing what? A. Facing mauka.

Q. And he was standing there holding the cable in position while Kalau and Kaimi were endeavoring to pry it back, was he? A. Yes.

Q. What was the condition of the cable?

Objected to as improper cross-examination.

Objection sustained.

(Testimony of Nunu.)

Mr. DOUTHITT.—You are employed down there at the present time by the Inter-Island, are you not?

A. No.

Q. Where are you working now? A. Stevedore.

Q. You work down there at the coal-conveyor when the ships come in, don't you? A. No.

Q. Never do any more? A. No. [360—282]

Q. You have before, have you not? A. Yes.

Q. Who have you talked to about this case?

A. The company sent for me.

Q. And who have you talked to about it?

A. I don't know his name.

Q. Is he here? A. Yes.

Q. Where is he? A. Judge Stanley.

Q. What was the conversation—what language was that conversation in that you had with George in which you suggested that George lift the weight, what language was that conversation carried on in?

A. In Hawaiian.

Q. Everybody else there could hear it, could they?

A. Yes.

Q. George was the boss, was he not? A. Yes.

Q. Where had he been before the cable was off, do you know?

Objected to as not proper cross-examination.

Objection sustained. Exception.

Q. Did anybody else suggest to Ward that the weight should be lifted besides yourself? A. No.



(Testimony of Nunu.)

Q. Now what language did you speak to Judge Stanley in when he asked you about the case?

A. In Hawaiian.

Q. Through an interpreter? A. No.

Q. What language did you use to Judge Stanley?

A. I spoke to him in Hawaiian.

Q. Who was the interpreter? A. Johnny.

Q. Johnny who?

A. That is the only name I know him by.

Q. That is Johnny Davis, is it not, down at the Inter-Island Steam Navigation Company's conveyer, or Johnny Kekuewa? A. Yes.

Q. He works down at the Inter-Island Steam Navigation Company, don't he? A. Yes, sir.

Q. And Johnny Kekuewa brought you up to Judge Stanley's office? [361—283]

Objected to as incompetent, irrelevant and immaterial, having no bearing on the issues of the case and not proper cross-examination.

Question withdrawn.

Q. You just tell us the exact words that you used to George Ward when you told him to get the weight and lift the weight? A. I don't remember.

Q. As a matter of fact, you don't remember much about this case at all, do you? A. I have forgotten.

Q. As a matter of fact, you don't remember whether you said anything to Ward or not at the time the cable was being replaced; is not that a fact?

A. I remember what happened at that time, but not the day.

Q. You don't remember as a matter of fact what

(Testimony of Kaimi.)

you said to Ward? A. I have forgotten.

Q. Or whether you said anything at all about it to him? A. I don't remember.

**[Testimony of Kaimi, for Defendant.]**

Direct Examination of Kaimi, called for the defendant, sworn.

The CLERK.—What is your name? A. Kaimi.

Mr. STANLEY.—Where do you live, Kaimi?

A. On School Street.

Q. In Honolulu? A. Yes, sir.

Q. And where are you employed?

A. Down on the wharves.

Q. Are you employed by the Inter-Island?

A. Sometimes with them and sometimes as a stevedore.

Q. Do you remember the occasion—I will ask, do you know [362—284] Mr. Ward? A. Yes.

Q. Do you remember the occasion on which he was hurt at the coal-conveyor of the Inter-Island Company? A. Yes.

Q. At what part of the conveyor did the accident happen? A. The makai end.

Q. Did you see the accident happen to Mr. Ward?

A. Yes.

Q. Now, what did happen to him?

A. Well, he fell over and got hurt.

Q. Now, where was Ward standing just before he fell?

A. He was standing near the makai end, facing makai.

Q. And on what part of the conveyor was he stand-

(Testimony of Kaimi.)

ing— You recognize this, do you, as a model of the makai end? A. Yes.

Q. Now will you indicate or point to the jury where Ward was standing before he fell?

A. One foot was on this side and the other foot on the other end.

Q. That is one foot was Waikiki—on the ties on the Waikiki side of the Ewa track and the other was on the Ewa side of the track, on the ties at the Ewa side? A. Yes.

Q. And where were you at that time, Kaimi, when you saw this? A. I was under the tower, the makai tower.

Q. Standing where?

A. I was under the tower up here; I was the one loading the cars with coal.

Q. Where do you load the cars with coal?

A. I was on the center plank.

Q. Referring to the planking between the two tracks. Who else was in the vicinity around there?

A. David Kalau was with me. He was the one who passed the car over to me.

Q. I am talking now of the time after Ward fell, Where were you at that time?

A. There was myself, Nunu and a half-white boy.

Q. Do you know what the name of the half-white boy is? A. I do not remember it now.

Q. Do you remember whether he was called Charley. Charley [363—285] Merseberg? A. Yes.

Q. And when Ward in the position up here as you have explained facing makai just before he fell,

(Testimony of Kaimi.)

where were you standing? A. I was about here.

Q. Mauka or makai of George?

A. I was mauka of George.

Q. State whether or not at the time—oh, I will ask you what was George doing at the time he was standing astride on the ties just before he fell?

A. The cable had slipped off the pulleys.

Mr. STANLEY.—Indicating the cable off the set of eight pulleys.

A. Well, the cable was off. I placed the crowbar up here at the head of the pulleys, the mauka head and had moved the cable back into position; the makai part of the cable off the pulleys had not at that time got onto the pulleys when George Ward came makai and put a crowbar in under the cable.

A JUROR.—Underneath the cable?

A. Yes, sir.

Q. Underneath the cable and what was the next thing you saw after seeing George in that position with his crowbar?

A. I saw him again as he fell over.

Mr. STANLEY.—Did you hear anything said to George while he was in the position you have indicated? A. No.

Q. I ask you and call your attention particularly to Nunu, if you heard Nunu say anything at that time?

A. Before we started in to work at the cable there I heard him say for us to go down below and lift the weight up.

Q. What is that?

(Testimony of Kaimi.)

A. Before we started to replace the cable I heard him say for us to go down and lift the weight up.

Mr. DOUTHITT.—Heard who say?

The INTERPRETER.—The question was addressed to Nunu.

Mr. STANLEY.—Who did he say that to?

A. To George.

Q. What did George say?

A. He made no answer. [364—286]

Q. State whether or not there was any car in the vicinity on the Ewa set of eight pulleys at the time that you were putting the cable back. A. Yes.

Q. Now on which side of the set of pulleys that is the mauka or makai side was that car?

A. Mauka.

Q. And about how far from the mauka end of that set of pulleys? A. About four or five feet away.

Q. State whether or not the position of that car was changed at any time before you attempted to get back the cable?

A. The car was pushed away before we replaced the cable and was that before or after George was hurt? A. Before he was hurt.

Q. And who put the car back? A. I did.

Cross-examination of KAIMI.

Mr. DOUTHITT.—Where were you when the cable came off?

A. Under the tower.

Q. Do you know where Ward was?

Objected to as improper cross-examination.



(Testimony of Kaimi.)

Mr. DOUTHITT.—Where was he at the time the cable came off?

Objection withdrawn.

Q. Where was Ward at the time the cable came off?

A. He was down at this end (indicating center planks).

Q. At the time when the cable came off the pulleys he was down at that end of the conveyor was he?

A. Yes, he was standing there.

Q. He was standing there at the time? How many pulleys did that cable come off?

A. All of them.

Q. Off the entire eight? A. Yes.

Q. And you at the time the cable came off were under the [365—287] tower? A. Yes.

Q. Loading coal on the Waikiki track?

A. Yes.

Q. What were you putting the cable back with?

A. Crowbars.

Q. Who had the crowbars?

A. I had a crowbar, George had another.

Q. And who had hold of the crowbar, who, if anybody?

A. That half-white boy whose name was mentioned a short while ago.

Q. Merseberg? A. Yes, Merseberg.

Q. Then you and Merseberg had hold of one crowbar and Nunu and Ward had hold of the other?

A. George was the only one I saw holding a crowbar and he fell over with it.



(Testimony of Kaimi.)

Q. What was Nunu doing?

A. Just standing there.

Q. He didn't have hold of the crowbar at all?

A. He had not touched it when George fell over.

Q. Where was Kalau?

A. Under the tower on the Ewa side.

Q. At the time when George fell?

A. Yes, he was some distance away.

Q. About how far away from the head of this coal-conveyor?     A. Ten feet more or less.

Q. Mauka of the makai end?     A. Yes, sir.

Q. You were putting the cable back by means of crowbars, as you say?

A. The cable was off the eight pulleys when we came down to replace it, I was in the makai position and had lifted the cable off onto the mauka pulleys, the first pulley and had moved my crowbar further along and was holding the cable taut when George Ward came makai and placed his crowbar under the cable and was in the act of prying the cable up when his crowbar slipped and that portion of the track was well greased and then he fell over.

Q. What knocked him over, the cable?     A. No.

Q. What knocked him over?     [366—288]

Objected to as calling for the conclusion of the witness.

Objection sustained.

Q. What was it that threw George over, if anything?

Same objection; same ruling.

Q. Did George slip and fall over?

(Testimony of Kaimi.)

A. I was mauka and had pulled my crowbar out and was holding the cable on when George put his crowbar makai and started to lift the cable up to get it onto the pulleys. Instead of getting the cable onto the pulleys the crowbar slipped under and the cable being taut while I was holding it slipped back on the bar and knocked him over back of the bar.

A JUROR.—Which side of the track was George standing on when he put the bar under the cable? This witness testified that he was standing over the track awhile ago when the cable went off but not which side of the conveyor he was standing on when he placed the bar under the cable. Which way was he pulling when he placed the bar under the cable?

The COURT.—Ask him.

A. He had one foot on the Ewa side end of the tie and one foot on the Waikiki end of the tie and he was facing makai and he put the crowbar under and pried the cable.

A JUROR.—Facing makai? A. Makai.

Mr. DOUTHITT.—With his legs completely straddling that Ewa track of that coal-conveyor, as I understand you? A. Yes.

Q. And where was Nunu?

A. Alongside of them on the Waikiki end of the ties.

Q. But Nunu was not holding onto the bar, as I understand Ward was the only man who had hold of the bar? A. George was the only one.

Q. Was he facing toward the sea, makai?

A. He was lifting up, on the pulley right about

(Testimony of Kaimi.)

where the eight pulley is, facing the sea, placing the cable over the pulley behind him. [367—289]

Mr. DOUTHITT.—Yes.

A JUROR.—How high is that track there?

A. About three feet or less. I didn't measure.

Mr. DOUTHITT.—When you attempted to replace the cable you usually use the bars, don't you?

Objected to as improper cross-examination.

Objection sustained.

Q. Do you know the usual manner of replacing the cable when it is off the pulleys, and was that the manner that was used on the date of this accident?

Objected to as improper cross-examination.

Objection sustained. Exception.

Q. Where were these crowbars kept?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained.

Q. Where were the bars that you procured on this occasion?

A. I had one under my tower, the other one was from the mauka tower.

Q. And do you know what the crowbars were there for?

Objected to as incompetent, irrelevant and immaterial and not proper cross-examination.

Objection sustained.

Mr. DOUTHITT.—Ward then was facing makai, was he, at the time the accident occurred?

A. Yes.

Q. And Kalau did not assist at all in attempting

(Testimony of Kaimi.)

to restore the cable, he remaining under the tower?

A. He did not come there.

Q. What language did Nunu speak when he told George to lift the weight? A. In Hawaiian.

Q. Now, you just tell me exactly what he said?

A. Nunu said to George, he said "George, go down and lift the box," and George said "No, get the crow-bars." [368—290]

Q. Said it in the presence of who?

A. No, George didn't say anything but told us to go and get the crowbar.

Q. Said that in your presence and in the presence of Merseberg and in the presence of Kalua?

A. David Kalua did not hear Ward.

Q. Well, he was out under that tower wasn't he?

A. Kalua was some distance away underneath the tower to be sure from where we were and Nunu didn't speak in a very loud voice, he said George lift the box.

Q. But Merseberg was there, was he not?

A. He was there, we were all there together.

Q. And there was nothing to prevent Merseberg from hearing it if he was there was there?

A. He could.

Q. You didn't say anything to George about lifting the weight, did you? A. I did not.

Q. Merseberg didn't say anything to George about lifting the weight did he?

A. No, Nunu is the one who spoke to him.

Q. And Kalua was not even called from his work under that makai tower to help the rest of you in

(Testimony of Kaimi.)

putting that cable back; do you wish the jury to understand that? A. He was not called.

Q. And although the cable was off the entire series of pulleys, was it, although the cable was off the entire series of eight pulleys, Kalau was not called from his work under that tower?

Objected to as already asked and answered, and argumentative.

Objection sustained.

Q. Kalau had nothing to do with the restoring of that cable or assist in restoring it at the time that Ward was hurt?

Objected to as already asked and answered.

Objection overruled.

A. He did not come near. If George had said he wanted him to come and assist he would have done so. [369—291]

Q. But he didn't come and he was not requested to come? A. Yes.

Q. Have you ever received any promise from the Inter-Island Steam Navigation Company for any testimony that you were about to give in this case?

A. No.

Q. Have you not been promised the sum of two dollars a day if you would testify in favor of this defendant for an indefinite time whether you worked or loafed? A. No.

Q. Didn't you tell David Kalau that you had been promised the sum of two dollars a day—just a minute please—that you had been promised the sum of two dollars a day by the Inter-Island Steam Naviga-



(Testimony of Kaimi.)

tion Company for the rest of your life, whether you worked or loafed if you would testify for the defendant in this case?

A. The company did not make that offer, except this that I told the representative of the company that if they wanted me to come and testify for them that they should reimburse me for the loss of my day's work, that is all.

Q. You didn't tell David Kalau that if you came here that the company had promised you a steady job at two dollars a day, if you came here and testified for the defendant, you didn't tell David Kalau that? A. No.

Q. Have you talked about the case with anybody since—before coming here as a witness? A. No.

Q. You have not talked then with anybody before you came to this courtroom to give your testimony?

A. Kekuewa came and told me to come up here and testify. That is all.

Q. And that is the only conversation that you had with reference to this case was with Johnny Kekuewa?

A. Well, he told me to testify in behalf of the company.

Q. That is the only talk that you had with Johnny Kekuewa? A. Yes.

Q. You didn't tell Johnny Kekuewa what you were going to testify to, did you?

A. I told him. [370—292]

Q. Did you tell anybody else—you didn't tell anybody else besides him did you? A. Not others.



(Testimony of Kaimi.)

Q. You have taken considerable interest, have you not, in behalf of the Inter-Island Steam Navigation Company in this case?

A. No, I simply came here as a witness when I was asked to come to testify to the trial.

Q. And you remember the fact that David Kalau was subpoenaed as a witness, don't you?

Objected to as incompetent, irrelevant and immaterial and not proper cross-examination.

Mr. DOUTHITT.—I want to show this witness' interest. It is simply preliminary. I want to show what he did. I want to show that he came down there for the purpose of receiving David Kalau when he came.

Objection overruled. Exception.

A. Well, he is a witness for George Ward.

Q. He got in from Kauai and you were down there at the boat to meet him on the Sunday morning when the boat got in?

A. I went down there to meet a passenger from Kauai.

Q. Who was the passenger?

A. A passenger from Kapaa.

Q. What is his name? A. Hilikolo, a man.

Q. Was Johnny Kekuewa down there that morning? A. I saw him there.

Q. Did you go in company with David Kalau to the attorney's office or house that day? A. No.

Q. David Kalau was a passenger on that boat, that your friend came in on that morning was he not?

A. Yes.

(Testimony of Kaimi.)

Q. Did you go anywheres with David Kalau that day when the boat got in from Kauai?

Objected to as incompetent, irrelevant, immaterial and not proper cross-examination.

Mr. DOUTHITT.—I want to show the witness' interest. [371—293]

Objection overruled. Exception.

A. No.

Q. Did you have any conversation at all with Kalau that morning about this case?

A. No, just greeted him as he came on shore. I think that George had subpoenaed him to come down.

#### Redirect Examination of KAIMI.

Mr. STANLEY.—You knew that George had subpoenaed him at the last trial?

Objected to as leading.

Q. What do you mean by saying—what made you think that George had subpoenaed Kalau?

Objected to as argumentative and calling for the speculation and conjecture of the witness.

Objection sustained, as immaterial and not proper redirect examination.

Mr. STANLEY.—It was brought out on cross-examination that Ward had his back towards the pulleys where he was trying to restore and just to straighten it out I want to have it indicated here whereabouts George had his crowbar.

Objected to.

Mr. STANLEY.—It came out in response to a question put by a juror during Mr. Douthitt's cross-examination. There is some misunderstanding and I

(Testimony of Kaimi.)

want to get it straightened out.

The COURT.—It is really not part of your cross-examination. The matter might be elucidated, however. [372—294]

Mr. DOUTHITT.—We object to it.

Objection overruled.

Mr. STANLEY.—Indicate now as near as you can whereabouts Ward had his crowbar at the time just before he fell over, whereabouts with reference to the eight pulleys? A. About here.

Mr. STANLEY.—Indicating between the fourth and fifth pulleys.

A JUROR.—That is what he said before.

Mr. STANLEY.—You were asked as to having had any conversation and you mentioned having had conversation with Kekuewa. When was that with Johnny Kekuewa? A. Last evening.

Q. And where was it? A. At his office.

Q. Do you remember stating to me at all—

Objected to on the ground that the witness has answered that he had not spoken to anybody with the exception of the conversation with Johnny Kekuewa.

The COURT.—You said you had conversation at his office, whose office did you refer to?

A. Johnny Kekuewa's office.

Objection overruled.

A. No.

Mr. STANLEY.—Do you remember having had a conversation with me a few days ago?

A. No.

(Testimony of Kaimi.)

Q. Did you understand the question? Do you understand speaking to me about this case?

Objected to as leading. Objection sustained.

Mr. STANLEY.—Is it not a fact, Mr. Kaimi, that you have not spoken to anybody about this case except Johnny Kekuewa?

Objected to as already asked and answered.

Objection overruled.

A. Well, Kekuewa is the one I spoke to and he is the only one and he came after me and asked me to help the company out. [373—295]

**[Testimony of Edward B. Friel, for Defendant.]**

Direct Examination of EDWARD B. FRIEL, called for the defendant, sworn.

The CLERK.—What is your name?

A. E. B. Friel.

Mr. STANLEY.—And where do you live?

A. Honolulu, here.

Q. And do you remember, Friel, the occasion of an accident which Mr. Ward sustained at the coal-conveyor of the Inter-Island Steamship Company?

A. I do.

Q. Do you remember now about when that was?

A. July 8th, 1912.

Q. Now, where were you at the time of the accident?

A. Checking coal off for the Inter-Island.

Q. In the company's employ?

A. In the company's employ, yes.

Q. And in your business in the process of checking coal where were you stationed?

(Testimony of Edward B. Friel.)

A. On the lower end, the custom-house officer was on my—

Q. On the lower end of what?

A. The upper end I mean of the coal-conveyor where the scales were.

Q. In the scale-house?      A. In the scale-house.

Q. And now, shortly before the accident, Mr. Friel, where were you?      A. At the scales checking off.

Q. And who was with you?

A. The custom-house officer, Mr. Cameron.

Q. Mr.      a custom-house officer and who else?

A. Mr. Ward. Mr. Ward was, I think, on the right-hand side of the custom-house officer, sitting down.

Q. And what was the first you knew of there being any trouble on the elevator, on the conveyor?

A. Well, one of the boys later sang out and Mr. Ward sang out there is pilikia. [374—296]

Q. Now, how long about had Mr. Ward been in the scale-house with you and Mr. Cameron before that boy yelled out pilikia?

A. I should say about ten or fifteen minutes, something like that. It was not very long anyway.

Q. Your best judgment is it is ten or fifteen minutes?      A. About ten or fifteen minutes.

Q. And what was Mr. Ward doing there?

A. Well, he was talking with us, we were all conversing one with the other.

Q. Now, when the native boy called out to George what did George do?

A. He got up and went down to the lower end of the conveyor.



(Testimony of Edward B. Friel.)

Q. When you mean the lower end is it mauka or makai? A. The makai end towards the sea.

Q. And what did you do?

A. Well, Cameron and myself both got up and walked down, part the way down.

Q. Was George ahead of you or behind you?

A. He was ahead of us, yes.

Q. And about how close to the makai end of the conveyor did you go?

A. Well, I should say about somewheres around about *twenty or feet*, twenty feet, near abouts anyway.

Q. And how far did Mr. Cameron go?

A. I think he went about the same. I am not sure because he was behind me.

Q. And whereabouts on which track of the conveyor, if you were on the tracks, did you walk?

A. On the Waikiki side.

Q. Now, when you got down to this point about twenty feet from the makai end of the conveyor, did you see Mr. Ward? A. I did, he had a crowbar.

Q. And whereabouts was he on the conveyor *was he* when you got to this point twenty feet away?

A. About near the curve.

Q. And which curve, the Ewa or Waikiki?

A. The Ewa curve.

Q. And whereabouts on that curve was he standing.

A. Well, [375—297] I could not—well about.

Q. In what position was he standing?



(Testimony of Edward B. Friel.)

A. Well, he had the crowbar under the—under the line there.

Q. What do you mean?

A. The cable, under the cable, trying to bring it over, it was off the trolley.

Q. It was off the trolley?     A. Yes.

Q. Now, you say that George had his crowbar under the line or cable?     A. Yes.

Q. Now, whereabouts was he standing with respect to the cable, in what position?

A. As I could see he was standing across the cable with his face seaward.

Q. State whether or not—you say he was standing across the cable, state whether or not he was standing on the ties.

A. No, I didn't notice him standing on that, all I noticed he was crossing the cable that was all I could see.

Q. What do you mean by across the cable?

A. One foot across and the other foot was on the other side.

Q. On the other side of what? Let me show you this model here. You came down you say to what position?

A. This Waikiki track to a position some thirty feet or so away.

Mr. STANLEY.—The witness indicates about this third stanchion on the Waikiki side.

A. Yes, sir.

Q. Now, will you show us where George was?

A. About there. This is the set of eight pulleys,

(Testimony of Edward B. Friel.)

somewhere down there and he had his foot across, his foot across there, across the way. This is supposed to be the cable.

Q. Then you indicated that George had his foot on the ties at the track? A. Yes, sir.

Q. And that was the position which you saw?

A. That is the position I saw, when I saw that I turned around and went [376—298] back and Cameron did the same thing.

Q. Did you hear anything said to Ward or in Ward's presence when he was in this position?

A. I heard one of the natives say not to do that aole, make, pilikia, and he made a reply something like shut up.

Q. And do you know which particular native that was?

A. I found out afterwards it was a fellow they call Nunu.

Q. Did you know him by any other name?

A. Yes, they called him Kalau.

Q. Did you know at the time that it was Kalau or Nunu speaking?

A. No, I didn't until I found out afterwards.

Q. Yes, I know the man I *didn't* what his name was until afterwards.

Q. But the man is Nunu or Kalau?

A. Yes, the same one was Kalau.

Q. When you heard this remark shut up what did you do?

A. I turned around and went off, it was when I was going off that I heard this remark.

(Testimony of Edward B. Friel.)

Q. And what did you next hear, if anything?

A. Next I heard one of the boys sing out George make and then we went across to the side there and saw him on the ground below.

Q. And how far had you got on your way back after turning around?     A. About half way.

Q. Half way?

A. Half way to the scales. [377—299]

Cross-examination of E. B. FRIEL.

Mr. DOUTHITT.—You looked over and saw him laying down below?

A. Yes, sir.

Q. Where were you, Mr. Friel?

A. I was on this side and I crossed over to that, Cameron and I crossed to the other side and Cameron then—I said to Cameron go and get a patrol wagon and telephone to the hospital.

Q. You were half way down and it is a distance of three hundred feet between that scale-house and that makai tower?     A. Yes.

Q. And you had walked down between—did you walk on the track or did you walk on the planks?

A. Walked on the planks and went across afterwards when I heard the noise.

Q. Walked on the tracks?

A. We walked on the track, the cable was stopped.

Q. You walked on the Waikiki track?     A. Yes.

Q. And you were about half the distance, about one hundred and fifty feet?

A. I don't know how long this was.

Q. Where was Mr. Cameron walking?

(Testimony of Edward B. Friel.)

A. He was right behind me.

Q. On the same track?

A. I would not say it was on the same track, but he was right behind me, but we went down on the same track. I cannot swear it was the same track.

Q. You walked down and saw Mr. Ward at the mauka end of the series of eight pulleys?

A. Yes, sir.

Q. At the mauka end?

A. Right where I pointed out to there, right where I pointed out.

Q. Where is that right here?

A. Where the depth is there.

Q. Where was the depth?

A. The depth was there. [378—300]

Q. And you saw him there, did you? A. Yes.

Q. And then you turned around and it did not interest you any further? A. No.

Q. There was nothing to interest you in at all?

A. Nothing, I just went down to see what the trouble was.

Q. And there was nothing unusual?

A. No, oftentimes the trolley got off, the cable got off the trolley, that is nothing new to me.

Q. At this point?

A. No, at different places, though at that point sometimes and sometimes at another point.

Q. Do you mean to tell me that the trolley got off at this point?

A. I say I don't know if it got off there, but it got off in different points.

(Testimony of Edward B. Friel.)

Q. In the coal-yard?

A. The coal-yard. I am talking about the conveyor, on the conveyor.

Q. And you know that the cable got off at other points of the conveyor than the coal-yard?

A. Yes, sir.

Q. Your business was at the scale-house?

A. Yes, sir.

Q. You are employed by the Inter-Island Steam Navigation Company as checker?

A. Not constantly.

Q. Your son is employed at the present time by the company?     A. Yes.

Q. What capacity is he in there?

A. He is on the wharf, been there for seventeen years in their employ.

Q. What other places did you see that cable get off that conveyor, Mr. Friel?

Objected to as not proper cross-examination.

Objection overruled.     Exception.

Q. Where?     A. What is that?

Q. Where, Mr. Friel?     A. Where what?

Q. Where have you ever seen that cable off? You said you've seen it off?

A. Why, on the side there, on the [379—301] sides there.

Q. What is on the sides there, the pulleys did you mean?

A. Many times on the side running along the cars would connect with one another and knock it out.

Q. Can you tell me where there is a pulley along

(Testimony of Edward B. Friel.)

that track on the side, Mr. Friel?

A. Why, I have seen a car off many a time.

Q. Will you show me on this model, show me on that coal-conveyor where there are any pulleys on that track with the exception of these makai ends?

A. What do you call the ends there, where the cable rests on?

Q. Are they pulleys?      A. Well, what are they?

Q. I am asking you?

A. That is where I have seen it get off on many a time.

Q. You have seen that lay down, sag down?

A. Where they have had to stop the work, yes.

Q. Because it got off?      A. Yes, sir.

Q. The pulleys are simply to maintain the cable in position as it runs around and you have seen them have to stop that work when that cable got off those?

A. Yes, many a time.

Q. Don't you know that they can simply lift it up and put it on?

A. They stop the work to put it on.

Q. Stop the work to put it on?

Objected to.    Objection overruled.

Q. Stopped the work to put it on those rollers?

A. Yes, many times.

Q. Do you mean to tell me, Mr. Friel, that you have seen the work shut down there and the Inter-Island Company stop on many an occasion when the cable simply got off the rollers in the center of the mauka and Waikiki tracks?

Objected to.



(Testimony of Edward B. Friel.)

A. Yes, I have. [380—302]

Q. You have? A. Yes.

Q. And how long was it stopped?

A. During my time of employment there—  
Objected to as not proper cross-examination.  
Objection sustained.

Mr. DOUTHITT.—You observed that, Mr. Friel?

A. Yes.

Q. On many occasions?

A. On many occasions.

Q. It didn't affect the cable in running around the  
dollies?

A. When the work was stopped, sure it did.

Q. Did they have to lay off?

A. It had to be stopped until it was put back  
again.

Q. Until it was put back on those rollers?

A. On those rollers, that is right.

Q. Will you tell me what it was that caused the  
cable to come off the rollers. I am not talking about  
the pulleys now, I am talking about rollers?

Objected to as not proper cross-examination.  
Objection sustained.

Q. And when the cable would come off of what  
you call the rollers, or dollies? A. Yes.

Q. And when they got off these, calling your at-  
tention to exhibit No. 4 of defendant, then the whole  
work had to be stopped to replace that cable?

A. That is right, that stopped it.

Q. And as I further understand you, Mr. Friel,  
about what time of the day was it when you were

(Testimony of Edward B. Friel.)

having that conversation with Mr. Ward and Cameron up there?

A. As near as I can remember it was between nine and ten, a little after nine.

Q. A little after nine?

A. Between nine and ten.

Q. There was a coal boat being discharged right down here on that occasion?

A. That is right, I was checking the coal.

Q. And you were checking the coal. Prior to that time the coal boat was busy or the buckets were busy taking the coal out [381—303] out of the hold of the ship, were they not?

A. Yes, sir, and we were weighing it.

Q. You were busy, Mr. Friel, checking coal at this scale-house? A. Yes, sir.

Q. And you were kept pretty busy, were you not? That coal-conveyor was being run to take the coal out as expeditiously as possible, was it not?

A. Yes, sir.

Q. And you were busy all the time checking your coal and weighing the coal and tallying it with the custom-house inspector?

A. As fast as it came along.

Q. And it was coming along pretty fast, wasn't it?

A. Not all the time.

Q. Not all the time? A. Not all the time.

Q. And these buckets were coming, were they?

A. When they got them filled down below, yes.

Q. They were constantly coming up, the buckets were coming up to be dumped in the hoppers the

(Testimony of Edward B. Friel.)

coal in the top? A. Yes.

Q. On both towers? A. Yes.

Q. Both towers were working?

A. That is right.

Q. Which scale were you working at?

A. On the Waikiki scale.

Q. And Cameron was there on the Waikiki scale, was he?

A. Yes, he was doing the weighing while I was doing the checking. The custom-house officer always weighs.

Q. And you say that five or ten minutes before that accident happened to Ward he was up there talking to you and Cameron? A. Yes.

Mr. STANLEY.—I object to the question that *it putting* words in the witness' mouth. The testimony is ten or fifteen minutes. I move that the answer be stricken.

Motion granted.

Q. How long were you up there talking with Ward before that [382—304] cable came off?

A. I cannot exactly tell the time, perhaps ten or fifteen minutes.

Q. During all the time you were standing there doing nothing, just talking to you and Cameron?

A. No, the coal came along but we kept talking, we didn't need to stop our weighing to talk to him.

Q. Now, Mr. Friel, you are engaged every time the coal boat came in to check coal there or to tally coal for the Inter-Island Steam Navigation Company? A. Not every time.

(Testimony of Edward B. Friel.)

Q. But mostly, were you not?

A. A great deal of the time.

Q. A great deal of the time. And Ward, during the time that these coal boats came in was generally engaged on the ship, was he not?

Objected to as not proper cross-examination.

Objection sustained.

Q. At the time, on the morning of this accident, Mr. Friel, Mr. Ward was down in the coal ship tallying coal prior to being up there, was he, if you know?

Objected to as not proper cross-examination.

Objection sustained.

Q. Do you know where he came from when he came up to the scale-house to talk to you, from what direction on the coal-conveyor did he come?

A. He came from the lower part of the coal-conveyor towards the sea side.

Q. Towards the sea?

A. Yes, that is where he came.

Q. Well, there was that boat laying alongside, was there not? A. Yes.

Q. Did she cover the makai tower and the mauka tower?

A. Well, I think they were both working, both towers were working.

Q. Now, if your both towers were working they had to take coal from the forehatch and afterhatch?

A. There are two [383—305] hatches working.

Q. The hatches covered the two towers?

A. Very often the hatches are so that they could

(Testimony of Edward B. Friel.)

work out of two hatches at one time.

Q. And the vessel is between the two towers covering the two towers, that is what you mean?

A. I wouldn't say that the vessel was between the two towers, there was two hatches working.

Q. Including the two towers alongside as she lay alongside the dock?

A. All I *can was* there are two hatches working, I cannot say that two towers are right near aft of the vessel or not.

Q. Where did Mr. Ward come from, if you know, before he got to the scale-house?

Objected to as asked and answered. Objection sustained.

The COURT.—He said that he came from forward.

Mr. DOUTHITT.—Forward, what do you mean by that?

A. The lower end towards the sea, from seaward.

Q. The top of the coal-conveyor or below?

A. The top of the coal-conveyor, that is where I saw him first.

Q. You say he came from the top; on the track, down these tracks?

A. I don't know where he came from but he came from below there, that is all.

Q. What do you mean by below?

A. He came from the lower end of the conveyor.

Q. From the top of the conveyor?

A. Of course, the top of the conveyor.

Q. Down to the scale-house?     A. Yes.



(Testimony of Edward B. Friel.)

Q. And coal was being constantly discharged all the time?     A. Yes.

Q. Don't you know, Mr. Ward—Mr. Friel, that at that time Mr. Ward was engaged superintending the discharge of coal from [384—306] the vessel's hold and was in the hold of the ship?

Objected to as not proper cross-examination.

Objection sustained.

Q. Is it not a fact, Mr. Friel, that at the time, just immediately prior to going up on that scale-house that Ward was in the hold of that ship, or on the deck of the ship, discharging coal or superintending the discharge of coal?

A. I could not say that.

Q. You could not say that?     A. No.

Q. Is it not a fact, Mr. Friel, that somebody called out to him that the cable was off and that he came up from the deck of the ship on the scale-house and walked in the direction of the makai end where the cable was off?     A. No, sir.

Q. That is not so?

A. No, sir, that is not so.

Q. Then, if I understand your testimony, you were there for about ten or fifteen minutes at the scale-house; that Mr. Cameron and you were at the scale-house for ten or fifteen minutes?

A. I was there all the time.

Q. And when the cable came off immediately walked in a makai direction towards the end of the coal-conveyor?     A. Yes.

Q. And that you walked to within twenty or

(Testimony of Edward B. Friel.)

thirty feet? A. Yes, about that.

Q. Were you under the tower or were you mauka of the tower? A. Just at the end of the tower.

Q. Which end? A. The lower end of the tower.

Q. What do you mean by the lower end?

A. The seaward end.

Q. You stood there for a moment? A. Yes, sir.

Q. And it had no more interest to you? A. No.

Q. And you turned right around and walked back towards the scale-house? A. That is right.

Q. You don't know what happened after you left?

A. No, I [385—307] don't that *it* right, until I heard the boys sing out.

Q. You heard somebody sing out after you had walked down towards the scale-house and after you got to the position about one hundred or two hundred feet?

A. Yes, about that. I am not exactly certain as to distances, it is about half way.

Q. That was a distance of three hundred feet from the scale-house—to the mauka end of the scale-house?

A. When the boy sung out I looked over and found him laying on the wharf.

Q. Now, did you walk leisurely or how did you walk when you went down towards the scale-house?

A. We walked just as usual, our regular walk.

Q. Why, you just took it easily, didn't you, just like that?

A. I was not in a hurry because there were no cars to be weighed.

(Testimony of Edward B. Friel.)

Q. There was nothing to do, therefore, you were not in a hurry? A. No, I was not.

Q. And you could not do anything, Mr. Friel, therefore you were not in a hurry?

A. No, I was not.

Q. And you could not do anything, Mr. Friel, until the operation of the coal-conveyor had been resumed? A. That is right.

A JUROR.—Do you remember, Mr. Friel, were there any cars on that tower when you were down there?

A. Yes, sir, there was a couple on this side and about the same on the other side where the trolley came off and around the curve there was more too,

Q. There were cars down there?

A. On both sides.

Q. Between where you were standing and where Mr. Ward was standing? A. Yes, sir.

Q. Which track? A. Across on both tracks.

Mr. DOUTHITT.—Then there were cars as I understand you on the makai track?

A. Both tracks. [386—308]

Q. On the Ewa track? A. Yes, sir.

Q. And there were cars on the Wakiki track?

A. Yes, that is right on the curve.

Q. You don't mean on the curve?

A. Right around the curve as you go around the curve.

Q. The cable was traveling in a mauka direction towards the coal yard? A. Yes, sir.

Q. And were there cars under the towers?

(Testimony of Edward B. Friel.)

A. There were cars, yes.

Q. And was there a car makai of the tower?

A. Yes, there was.

Q. There was a car?      A. A couple of cars.

Q. Did you see a car pushed back or anything of that kind?      A. Did I what?

Q. Did you see a car pushed back mauka of the Ewa side?      A. No.

Q. You didn't see that?      A. No.

Q. Will you please explain to this jury, Mr. Friel, how it was possible for you to climb over there and down on the side of that wharf from the position which you occupied on the side of the coal-conveyor?

A. Why, there is a rail there, you can just look down.

Q. How did you get over to the rail?

A. I crossed across.

Q. How did you cross?

A. There is supposed to be a rail here to go across there, and as you look down you look down from the rail.

Q. Do you mean to say that you were in a position then about one hundred and fifty feet between the makai end of the tower and the scale-house, were you?      A. About that.

Q. One hundred and fifty feet?      A. About that.

Q. Now, you would have to cross over here, wouldn't you?      A. Yes. [387—309]

Q. You would have to go—did you get on this rail here?

A. I crossed across there to that and we stood

(Testimony of Edward B. Friel.)

something like there and looked over the rail and saw him down at the end there.

Q. Looked over which end?

A. The rail, the same rail if it is there now, why it must be there.

Q. What did you mean, did you look over this or what did you look over?

A. Well, the rail was there.

Q. What rail?

A. There is a rail down there now.

Q. Is that the rail you looked over?

A. If this is the rail I looked over. Now, it must be.

Q. Mr. Friel, that is an exact replica of the coal-conveyor as it stood at that time?

A. We looked over, we both saw him down there on the ground.

Q. And do you mean to say that you could look through there down and see a man lying there on the ground? A. Why not?

Q. Then, you could look down as I understand you, from your position, that you could look down through the coal-conveyor and see a body lying twenty-five feet on the dock below from the top of that coal-conveyor?

Objected to as already asked and answered.

The COURT.—Not through the coal-conveyor  
Objection overruled.

A. I did not say that I looked through the coal-conveyor.

Q. What did you say?



(Testimony of Edward B. Friel.)

A. I said I looked over the side of the rail and I could see him lying down there on the ground.

Q. What rail did you look over?

A. Well, the rail, if that is the same rail that is there now. No, that is the one, I think it's that. There is where I went down, we went on there and looked over there, we looked over this outside rail and looked down.

Mr. COKE.—You got on this outside planking here and looked [388—310] over this rail?

A. Yes.

Mr. DOUTHITT.—You got on the outside planking, you say? A. That is right.

Q. And you looked over that outside planking to the dock below? A. Yes.

Q. What is the distance between the outside planking to the ties of this track?

A. Well, the outside planking I think is, I think it is two boards wide, they are sixteen inch boards, something like that. It is wide enough for a man to stand on.

Q. How far is the beginning of this outside rail from the ties, from the outside planking to the ties?

A. I could not tell you how far it is. It is far enough to go out on the planks.

Q. How did you get from that track, Mr. Friel, to that outside plank or footpath, whatever you may call it?

A. Well, there is a way of getting out there.

Q. How did you get out? A. We got out there.

Q. Let us find out how you got out there?

(Testimony of Edward B. Friel.)

A. You could get underneath here if you like to get out for that matter, or you could go around the other end for that matter.

Q. How did you get out?

A. I got out through this side over here somewhere and we looked down and saw the man.

Q. You say that you got out?

A. I could get out underneath the rail if no other way.

Q. Mr. Friel, I would like to have you explain to this jury how it was possible for you to get out upon that footpath?

A. I know I got out there whether I got underneath here or over the top of it, I am not sure but I know that I got out there on the plank and we looked down there and saw him.

Q. Then, you say that you are not certain, Mr. Friel, that you are not certain as to whether you were on that plank or not?

A. No, I am not positive now, I say, [389—311]

Q. And you are unable to tell this jury how it was that you got out on that foot-rail?

A. I think I told you that I got underneath or over it, because I stood on the boardpath, Cameron and I, and looked over and saw the body.

Q. So you are unable to state to this jury at the present time how you got out there?

A. Well, I have already told them.

Q. No, you have not, Mr. Friel?

A. Well, I got out there, I was out there, that is all. We both saw him laying down there on the

(Testimony of Edward B. Friel.)

ground and I was the one who gave the orders.

Q. Don't you know, Mr. Friel, from your experience on that coal-conveyor, that the distance between these rails and the plank out there is about six feet?   A. I never measured it.

Q. I know you didn't measure it, Mr. Friel, but can't you give us some idea of what it is?

A. No, it didn't interest me so I never measured it.

Q. But, Mr. Friel, you understand what six feet are?

A. Of course I understand six feet, but I never—

Q. Now, don't you know, Mr. Friel, that the distance between these tracks, the outer portion of these tracks to this walk on the outside is a distance of about six feet?

Objected to as already asked and answered.

Mr. DOUTHITT.—Now, approximately, Mr. Friel, I don't want you to go into feet and inches, exactly the number of inches, but I would like for you to give this jury some idea of the distance between the ties and the outside of the rail as shown on this model?

A. As I have already told you, I could not give it.

Q. Was it two feet?

A. It must have been. Yes, it must have been two feet.

Q. Was it three feet?

A. That I could not state. I would not like to go any further because I am not positive. [390—312]

Q. Are you prepared to state, Mr. Friel, that it

(Testimony of Edward B. Friel.)

was not six feet? A. No, I am not.

Q. Then you don't know as a matter of fact what it was?

A. No, because I never took no interest, I never measured it, nothing *on* the kind. I very seldom went down that way.

Q. Now, is it not a fact, Mr. Friel, that the—then for all you know that the ties might be six feet from the outside rail?

Objected to as already asked and answered.

Objection sustained.

Mr. DOUTHITT.—I don't wish to be inquisitive but would you kindly tell us your age?

A. My age, sixty-four next September.

Q. Now, Mr. Friel, when you got down to the makai end, or the distance, we will say, twenty feet from the makai end of the coal-conveyor on the date that Mr. Ward was injured, how many men were there?

A. I would not like to say whether there was four or five, there was either four or five, I would not like to say the exact number of them, but I know there was some men down there either four or five, I am not positive.

Q. Now, you knew the men who were working around the coal-conveyor, did you not?

A. Well, I knew them *them* by sight, yes. Ward I was acquainted with.

Q. You knew Nunu and Kalau?

A. Oh, yes, because he is around the scale a good deal of the time.

(Testimony of Edward B. Friel.)

Q. You knew Merseberg, didn't you?

A. I am not sure.

Q. Charley Merseberg?

A. Yes, sir, I don't know him by that name. I may know him by sight.

Q. Did you know a man by the name of Kalau—besides Ward how many were there?

Objected to as already asked and answered.

Mr. DOUTHITT.—How many Hawaiians were there?

A. Just as [391—313] I have stated, I am not positive whether there was four or five, it may have been four or may have been five, I would not exactly be positive.

Q. And were these Hawaiians on this track here?

A. On this side further in.

Q. What?

A. They were further along this side.

Q. But *there* were all over on the—working at that cable?

A. They were at this end, the Waikiki side, they were on the Waikiki side.

Q. Oh, they were on the Waikiki side?

A. Yes, sir, that is where they were.

Q. But they were Waikiki, but you mean on the Ewa track?

A. No, no, the Waikiki side here. The Waikiki side down here.

Q. This is the Waikiki side?      A. Yes, that is it.

Q. They were all over here?      A. That is where I noticed them.



(Testimony of Edward B. Friel.)

Q. They were all there? A. Yes.

Mr. STANLEY.—Referring to the planking below the track.

Mr. DOUTHITT.—The engine was stopped, was it?

A. That is right.

Q. And these natives were there on the Waikiki track? A. Yes.

Q. And Ward was there on the Ewa track?

A. Yes, that is it.

Q. He was the only man over there, the Hawaiians were on the Waikiki track? A. That is right.

Q. You walked, Mr. Friel, along the Ewa track or the Waikiki track? A. The Waikiki track.

Q. Going toward the end? A. Yes, sir.

Q. Now, was there anybody there when you got there, was there anybody under the tower?

A. I didn't notice any one.

Q. You didn't notice anybody?

A. Not at the coal tower.

Q. You didn't notice anybody at the coal tower, they were [392—314] all out here at the Waikiki track?

A. Yes, that is what I am telling you.

Q. What you were telling me, and you noticed no one at all under the tower?

A. No, I didn't notice.

Q. What were these Hawaiians doing on the Waikiki track, Mr. Friel?

A. I didn't notice them doing anything.

Q. They were just standing there, were they?

(Testimony of Edward B. Friel.)

A. That is all I saw them doing. I didn't see them doing anything.

Q. They were not doing anything at all?

A. No.

Q. And what was Ward doing?

A. When I turned around to go back he had the crowbar under the cable. When I saw that I turned around and came back, both I and Cameron together.

Q. Ward had the crowbar *and using* it under the cable? A. To bring it back to its—

Q. How is that? A. To bring it back again.

Q. That was the last thing that you saw, Mr. Friel?

A. That *it* all I saw until I—

Q. That is all you heard?

A. Until I heard the—

Q. Until you heard the cry that Ward was dead or something of that kind or had fallen?

A. Or had fallen over underneath the coal-conveyor.

Q. And you were at that time midway between those towers? A. Yes.

Q. Or midway between the scale-house and the makai end of the coal-conveyor? A. Yes, sir.

Redirect Examination of E. B. FRIEL.

Mr. STANLEY.—You have indicated, Mr. Friel, the position of these other men as being on the planking here between the tracks? [393—315]

A. Yes, that is right.

Q. And not as counsel has *repeated* indicated by pointing to these plankings on the track? A. No.

Q. What is the fact, Mr. Friel, were they on the planking here?

(Testimony of Edward B. Friel.)

A. Where you have your pencil now, right on the planking.

Q. Right on the planking between the tracks?

A JUROR.—That is not on the track at all.

A. No, that is where they were there (indicating midway on the planks between the double tracks).

Mr. DOUTHITT.—But toward the Waikiki side?

A. Toward the Waikiki side, not toward the Ewa side, toward the Waikiki side.

Q. On the center of this circle? A. Yes, sir.

Mr. STANLEY.—And whereabouts, Mr. Friel, were the cars that you told Mr. Douthitt were there at this time?

A. About on this side, two on this side and as near as I can remember, two on the other side and these were further around the curve.

Q. Was there anything to prevent your seeing, Mr. Friel, Mr. Ward at the time that you say you were twenty or thirty feet away? A. Nothing.

Q. And in describing the position in which he was in? A. Nothing.

A JUROR.—Coming over to this walk from the ties was it just an easy step from the end of the tie onto that walk? A. Yes.

Q. You just stepped from the ties onto the walk?

A. Yes, sure.

Mr. DOUTHITT.—An easy step, is it?

A. For me.

Q. It was for you? A. Yes. [394—316]

[**Testimony of John Gordon Blair Cameron, for  
for Defendant.**]

Direct Examination of JOHN GORDON BLAIR CAMERON, called for defendant, sworn.

Mr. STANLEY.—What is your full name, Mr. Cameron?   A. John Gordon Blair Cameron.

Q. Where are you working, Mr. Cameron?

A. Working down at the American-Hawaiian Steamship Company.

Q. Do you remember the occasion of the accident happening to Mr. Ward at the coal-conveyor of the Inter-Island Steam Navigation Company?

A. I do.

Q. About how long ago was that?

A. About two years ago, I should judge.

Q. And what was the accident?

A. Well, they—

Q. What happened to him?

A. He fell off the coal-conveyor down onto the wharf.

Q. Now, had you seen Mr. Ward prior to the accident?   A. I did.

Q. Where did you see him?

A. We were up in the scale-house of the elevator talking.

Q. What was your business at that time, Mr. Cameron?   A. I was inspector of customs.

Q. What business had you on this coal-conveyor?

A. I was there weighing coal coming out of the ship that came in.

Q. For the United States Customs department?

(Testimony of John Gordon Blair Cameron.)

A. The United States customs.

Q. When you say you were there talking in the scale-house, who was there?

A. Mr. Friel, George, Friel and myself.

Q. You mean Mr. Friel, the old gentleman who just left the court room? A. I do.

Q. And what did you first know of the trouble on the coal-conveyor?

A. The first thing I heard some yelling out [395—317] pilikia.

Q. Where was Mr. Ward at that time?

A. He was sitting in the scale-house above me.

Q. What was he doing in there?

A. Just telling stories and talking, one thing and another.

Q. And how long before you heard the call pilikia had Mr. Ward been there?

A. Well, I should judge about fifteen or twenty minutes.

Q. Now, when there was a call pilikia, what did Ward do? A. Beg pardon?

Q. What did Ward, if anything, do when this shout was heard pilikia?

A. He left the scale-house and walked toward the end of the tower.

Q. What did you do, if anything?

A. I sat there a few minutes and then I got up and walked down below myself.

Q. Alone or with anybody else?

A. Beg pardon?

Q. Were you alone or did anybody accompany



(Testimony of John Gordon Blair Cameron.)

you? A. Mr. Friel was with me.

Q. And in which direction did you walk?

A. Toward the end of the pier, toward the sea.

Q. And then what distance, about the distance—on, I will ask you did you see Mr. Ward there when you went down there? A. I did.

Q. And within what distance of *his* did you get down?

A. Well, about twenty or thirty feet I should judge.

Q. Now, on which side of the conveyer were you on your journey down?

A. I went down toward the middle, then I stepped toward the left a little bit.

Q. Toward the left, that would be Waikiki way?

A. Yes.

Q. And on what did you step?

A. On the track on the Waikiki side.

Q. Now, when you got down to this position that you describe [396—318] at twenty-five or thirty feet away what did you see?

A. I saw the cable carrying cars around was off the rig at the end of the wharf,—at the end of the pier rather, but—

Q. Now, I will ask you to look at this model, Mr. Cameron, you recognize it as the model at the makai end? A. Yes, sir.

Q. It is understood that instead of there being only thirty pulleys here there are sixty on the ring and this would be the makai end?

A. This would be the makai end.

(Testimony of John Gordon Blair Cameron.)

Q. Which pulleys was the cable off?

A. This row over here.

Q. Now, where was Mr. Ward when you got to this position about twenty or thirty feet away?

A. He was standing here, I guess, one leg over here and the other leg over on the other side of the range, as far as I remember.

Q. And which way was he facing, Mr. Cameron?

A. He was facing toward the sea.

Q. And what was he doing, Mr. Cameron?

A. He was at the time trying to put the cable on the rings again.

Q. You indicate that he was standing with one foot on one end of it and the other on the other end of it?

A. No, between the rails.

Q. On the rails I say. State whether or not he was down on the platform below the track?

A. No, sir, I didn't see him down below there.

Q. I will ask you what you went down there for?

A. Well, I just went down to see what the trouble was.

Q. And you saw that the cable was off the trolleys, what did you do then?

A. I walked up to the scale-house again.

Q. What did you do then?

A. I walked up to the scale-house again.

Q. What did you next do, did you reach the scale-house? [397—319]

A. I did.

Q. You got to the scale-house? A. I did.

Q. And what did you next hear?

(Testimony of John Gordon Blair Cameron.)

A. Well, the next thing I heard somebody yelled out George make.

Q. Where were you, Mr. Cameron, when you heard that? A. I was *on* the scale-house.

Q. Did you see Mr. Ward out there?

A. Beg pardon?

Q. Did you see Mr. Ward out there?

A. I didn't see him at that time, no, until I went on the other side of the elevator.

Q. You went on—on which side of the elevator were you *in* in the scale-house?

A. On this side, the Waikiki side.

Q. And then you say that you didn't see him until you went over to the Ewa side? A. Yes.

Q. How did you see him then?

A. I looked there right under the elevator and I saw him lying down on the wharf down below.

Cross-examination of JOHN GORDON BLAIR CAMERON.

Mr. DOUTHITT.—Mr. Cameron, Mr. Friel was with you, was he?

A. Yes, he was.

Q. And Mr. Friel came along with you and walked back with you? A. He did.

Q. And you walked back leisurely? A. Yes, sir.

Q. And you did not hurry, there was no necessity for hurrying? A. None at all.

Q. Your work was temporarily stopped and you had to wait until the conveyor started up again?

A. Until they started up.

Q. Until the work was resumed you could do noth-

(Testimony of John Gordon Blair Cameron.)

ing? A. Yes. [398—320]

Q. And you and Mr. Friel walked leisurely along on the coal-conveyor back to the scale-house?

A. Yes.

Q. And Mr. Friel was with you? A. Yes, sir.

Q. Now, there is a large platform, is there not, Mr. Cameron, at the scale-house around here for example quite a wide platform? A. Yes, sir.

Q. You walked over to here and looked out, did you? A. Yes, sir.

Q. You looked out there? A. Yes, sir.

Q. You did not go down on this footway at all?

A. I don't remember, no.

Q. You didn't, did you?

A. I don't remember to have.

Q. Now, Mr. Cameron, is it not a matter of fact that when you heard that call and you were at the scale-house you went across there on the Ewa side where this platform is and looked down there and saw the body there laying at the makai end?

A. What body?

Q. You didn't go down on this footpath, there was no necessity of going down on the footpath to look over? A. Not that I know of.

Q. And Mr. Friel and both of you were engaged in the operation at that time, that is the both of you were engaged in tallying sugar, you for the custom-house— A. We were weighing coal, I believe.

Q. And Mr. Friel on behalf of the Inter-Island Steam Navigation Company?

A. Yes, sir, so I believe.

(Testimony of John Gordon Blair Cameron.)

Q. You were working for the custom-house, Mr. Cameron, at the time?     A. Yes.

Q. And when you heard the crying out of somebody George make, Mr. Friel and you immediately stopped and went over to see that?     A. Yes, sir.

Q. Both were there at the same time?

A. Yes, sir.

Q. Now, Mr. Cameron, when you got out here at the end there [399—321] was no particular occasion of paying—there was no occasion to pay any particular attention to what was going on there, was there?     A. No, not that I noticed.

Q. Not that you noticed?

A. I just saw what the trouble was and I started walking back.

Q. Well, you are not absolutely prepared to swear as a matter of fact, as the absolute fact, that Ward had his legs over the cable?     A. I am.

Q. You are?     A. I am.

Q. When you saw it?     A. When I saw it.

Q. And he stood there with a bar in his hand, did he?     A. He did.

Q. Did he have the bar in his hand like that?

A. No, he was trying to pry the cable back over the rings.

Q. And the natives where were they?

A. They were scattered all around.

Q. Were they not on this side sitting down near the planks?     A. I didn't notice them.

Q. You didn't notice them?

A. I noticed some below him and some on this side of him.



(Testimony of John Gordon Blair Cameron.)

Q. Some below and some on this side of him?

A. Yes.

Q. And you were on the Waikiki track, you say?

A. I was.

Q. And which one was the first toward you?

A. I could not say, I did not know any of them.

Q. Was it Ward or one of the Hawaiians?

A. One of the Hawaiians, as I recollect.

Q. Who was next to the Hawaiian?

A. Well, I don't know how many Hawaiians were between me and Ward but I could see Ward very plainly.

Q. The Hawaiians were between you and Ward?

A. Not exactly between, they were on the side a little mauka, I could see Ward very plainly.

Q. Ward? A. Yes. [400—322]

Q. Is it not a fact that the Hawaiians at that time were down there on the planking below the coal-conveyor?

A. I didn't look over that way, I was looking toward the track.

Q. You gave one quick glance like that and just stood there casually for a second and walked off?

A. Probably two or three minutes, and I saw the cable was off and I started to walk back. It was none of my business anything there.

Q. You didn't stay up there any length of time to see what was done afterward, did you? A. No.

Q. When you walked back then to the scale-house, which is a distance of three hundred feet from the makai end of this coal-conveyor to the scale-house,

(Testimony of John Gordon Blair Cameron.)

is it not? A. I don't know the distance.

Q. Well about? A. Probably.

Q. To your best recollection what is it, three hundred feet?

A. Well, I should judge about two hundred and fifty, something like that.

Q. You judge it would be about two hundred and fifty, and you walked back talking leisurely, I presume, with Mr. Friel? A. Yes, sir.

Q. And when you got back to the scale-house did you sit down? A. And sat down.

Q. And Friel sat down too?

A. Yes, I think he did.

Q. That is your best recollection?

A. The best recollection that I can remember, yes.

Q. As you went out there, Mr. Cameron, who was ahead, was Friel ahead or were you ahead?

A. I cannot say as to who was ahead either he or myself.

Q. And you were with him right there, were you not?

A. We were together all right, and whether he was a little ahead or whether I was ahead of him I cannot say.

Q. But you were both approximately together?

A. Yes. [401—323]

Q. And where did you go to and stop with reference to this tower, for example?

A. Well, between twenty and thirty feet from the end I should judge.

Q. Do you mean from the makai end, Mr. Cameron?

(Testimony of John Gordon Blair Cameron.)

A. I mean twenty or thirty feet from where Ward was at the time.

Q. Twenty or thirty feet, you stopped there?

A. Yes, sir.

Q. You stopped there twenty or thirty feet from where Ward was at? A. I did, yes.

Q. Under the tower?

A. I cannot say whether the tower was in that position or not.

Q. You don't know whether you were under the tower? A. No, I could not say.

Q. And you don't know whether you were mauka of the tower or makai of the tower? A. No.

Q. You don't know, Mr. Cameron, who, as you stood there, who was nearest to you, nearest to Ward?

Objected to as he has already testified he cannot say.

Q. Do you know? A. No, I don't know.

The COURT.—Of the employees?

That is objected to as already asked and answered.

Objection sustained.

Q. Do you know the names, Mr. Cameron?

A. No, I do not.

Q. And who was nearer Mr. Ward, you or Mr. Friel? A. I cannot say.

Q. Did you hear anything said or *anything*?

A. No, sir.

Q. Nothing said by anyone there that you heard?

A. All that I—

Q. That you heard? A. No, not that I heard.

(Testimony of John Gordon Blair Cameron.)

Q. Your hearing—nothing wrong with your hearing is there, Mr. Cameron?     A. I don't think so.

Q. Is it a fact—I understood your testimony, Mr. Cameron, is that you turned around and walked back with Mr. Friel to the [402—324] scale-house?

A. Yes, sir.

Q. Both of you together?     A. Yes, sir.

Q. And you stayed there?

Objected as already asked and answered.

Objection sustained.

Q. Now, I will ask you whether as a matter of fact at any time that you crossed over that track and got onto this outside railing?

A. I do not remember.

Q. Well, what do you mean, Mr. Cameron?

A. I do not remember having got down on that rail at all, all I remember is going across to the scale-house.

Q. Well, then, if you had you would remember it, wouldn't you?

A. Well, I might, yes, but I don't remember going down there at all.

Q. You don't remember whether Friel went down there, do you?     A. No, sir, I don't.

Q. Do you mean to say that he did not or that he did?

A. I don't say anything with regard to Friel.

Q. Friel was right there with you?

A. Well, when I went there to look I wasn't paying attention to Friel at all.

Q. When you went there to look you weren't pay-

(Testimony of John Gordon Blair Cameron.)

ing attention to Friel?

A. No, I went there to see what was the trouble down below.

Q. But you and Friel walked down towards the scale-house when you left the makai end?

A. Yes.

Q. You didn't pay any particular attention to the time that Ward was up there at the scale-house, that he was there, did you? A. No, sir.

Q. You didn't time it, of course, there was no necessity for it? A. Not at all.

Q. So that when you say fifteen or twenty minutes, Mr. Cameron, that is merely a guess or your speculation? A. That is all. [403—325]

Q. Do you remember what time of the day it was?

A. No, I did not, it was in the morning some time.

Q. Well, was it around noon?

A. Well, I cannot say whether it was around noon or not, as far as I remember it was about the middle of the forenoon.

Mr. STANLEY.—When you say, Mr. Cameron, a guess or speculation at the time you mean that is your best judgment?

A. That is my best judgment, yes.

A JUROR.—After you came back to the scale-house and sat down with Mr. Friel do you know about how long that you stayed there before you heard that cry? A. I do not.

The further hearing of this case was continued until 8:30 o'clock to-morrow morning. [404—326]



*In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.*

January, A. D. 1914, Term.

June 5th, 1914.

GEORGE E. WARD,

Plaintiff,

vs.

INTER-ISLAND STEAM NAVIGATION COM-  
PANY,

Defendant.

[**Testimony of N. E. Gedge, for Defendant  
(Recalled).**]

Direct examination of N. E. GEDGE, recalled for  
the defendant.

Mr. STANLEY.—Mr. Gedge, you have testified  
that you are a resident of Honolulu and treasurer  
and secretary of the Inter-Island Steamship Com-  
pany, a corporation, in this city? A. I have.

Q. How long have you been connected with that  
company?

A. About a little over thirty-one years.

Q. And in what capacity were you first employed  
there?

A. As a minor clerk about the office in a minor  
position at the office. I started as a youngster with  
them.

Q. And after that?

A. I have been assistant bookkeeper. Bookkeeper  
and finally bookkeeper.

(Testimony of N. E. Gedge.)

Q. What?

A. I have been assistant bookkeeper, bookkeeper and finally secretary and then treasurer as well as secretary.

Q. And how long have you occupied the position of secretary and treasurer?

A. I suppose somewhere about sixteen or seventeen years.

Q. And what are your duties, Mr. Gedge, as secretary and treasurer [405—327] of the company?

A. I have charge of the finances of the company, the record of stock transfers, the records of all meetings, the books and accounts of the company, clerical affairs of the company in the main office, also all the pursers and freight clerks, the clerical force in the Oahu offices at the Marine Railway and at the coal yard and have the supervision over the coal business of the company.

Q. What?

A. And a supervision over the coal business of the company.

Q. What do you mean by the coal business of the company?

A. Well, I handle all the correspondence in connection with the purchases of coal and matters of that description.

Q. State whether or not, Mr. Gedge, you have ever received any training as a machinist or engineer.

A. I have not.

Q. Have you ever done any mechanical, machine or engineering work?      A. No, none.

(Testimony of N. E. Gedge.)

Q. Now, you are familiar, of course, with the plant—the coal plant and conveyor of the Inter-Island Company? A. I am.

Q. When was that erected?

A. I believe in the latter part of 1908 and went into operation about May or June of 1909.

Q. And who actually erected the coal-conveyor for the company?

A. Mr. Ouderkirk erected the wood work and Mr. Ward erected the steel work, the erection and cable and dollies and all such things in connection with it.

Q. Now, what if any, connection, Mr. Gedge, have you or had you—after the erection of the coal-conveyor of the plant, what if any connection had you with this coal-conveyor plant?

A. Just the same as I had at the Marine Railway about the wharves and other outside operations of the company.

Q. Now, what do you mean by that?

A. I kept myself posted as to the progress of the work and saw that it went along smoothly and that our agreement with the ships were being lived [406—328] up to.

Q. What do you mean by your agreement with the ships?

A. Well, in the purchase of coal we have to guarantee a certain amount of discharge per day, a certain number of tons must be discharged per day, otherwise we will be subject to demurrage.

Q. And what was that demurrage, what would it amount to?

(Testimony of N. E. Gedge.)

A. Well, it amounts to—it depended a great deal on rates of freight, it was from eight cents a fraction over eight cents per registered ton, sometimes over twelve cents.

Q. On a vessel then say of five thousand tons what would that demurrage amount to?

A. On a vessel of five thousand tons that demurrage would amount to four hundred dollars per day.

Q. Now, what, if anything, had you to do with the coal ships?

A. I would always meet the captains on arrival and with the custom-house broker would arrange for the entrance of the ship, or the cargo at the custom-house, if necessary, and would also make arrangements as to the charges which would be for weighing, wharfing and stevedoring. I would also invariably introduce Mr. Ward to the captain of the ship as the company's representative of the company's coal plant and would request the captain to request his chief officer to move his ship whenever Mr. Ward desired to have it done.

Q. Subsequent to the erection of the coal-conveyor who was in charge of the plant looking after the mechanical operation of it? A. Previous to the—

Q. Subsequent to the erection of the conveyor who was in charge of the plant?

A. We had no conveyor plant down there at that time, we simply had a coal-yard and we carted the coal.

Q. Subsequent means after you know?

A. Oh, I did not understand you. [407—329]

(Testimony of N. E. Gedge.)

Q. After the erection of the conveyor who was in charge, who, if anybody, was in charge of the coal-conveyor and plant?

A. Mr. Ward was in charge of the coal ships discharging and when there were not any coal ships discharging we just had the luna down there, a man by the name of Maguire first and then Akina afterwards.

Q. Who placed Mr. Ward in charge of the conveyor?     A. Mr. Muirhead.

Q. Who is in charge of the coal-conveyor?

A. Mr. Muirhead. Mr. Ward was directly under Mr. Muirhead. By Mr. Kennedy's orders Mr. Muirhead placed him in charge.

Q. And at what time would Mr. Ward be in charge of that coal-conveyor?

A. Whenever a coal vessel came in to be discharged.

Q. And how long did that connection of Mr. Ward with the coal-conveyor continue?

A. Until the time of his accident, as long as he was in the employ of the company.

Q. That would be about how long? Do you remember the date of the accident?

A. In July it would be about three years, if I remember correctly.

Q. That is the conveyor was erected—was completed about June in 1909?

A. Yes, as I understand about July of 1909, and his accident occurred about July, 1912.

Q. Now, do you know what Mr. Ward's duties



(Testimony of N. E. Gedge.)

were in connection with the coal-conveyor?

A. Yes, I do. He had full charge of the operation of the plant, kept the plant in order, did all the necessary repairs and looked out for the work so that it would not be delayed.

Q. If any repairs had to be made on the coal-conveyor, while coal vessels were in, or any other time, whose duty was it to see that those were made?

A. Mr. Ward.

Q. If any gear had to be replaced whose duty was it to see that it was replaced in the proper time?

A. Mr. Ward's duty. [408—330]

Q. What, if any, connection, Mr. Gedge, had you with the repair work, or the work of putting in or seeing that gear was put in?

A. I had nothing to do with it further than if I was told about it to report it that is all.

Q. Now, Mr. Gedge, that—how many sets of men had you working down there at the coal-conveyor?

A. Well, there was the regular gang working there in ordinary times, extra gangs were taken on when a coal ship was discharging.

Q. What do you mean, Mr. Gedge, by saying in ordinary times?

A. When it is just used for bunkering our own steamers or filling orders, a regular conveyor gang.

Q. That is, there were not foreign coal vessels in and the conveyor was merely being used for the purpose of local orders for coal?

A. Just local orders, yes.

Q. Or bunkering your own steamers?

(Testimony of N. E. Gedge.)

A. Bunkering our own steamers.

Q. There was one gang employed? A. Yes.

Q. And then extra men employed for the foreign coal ships when they came in? A. Yes.

Q. Bringing coal here? A. Yes.

Q. Who had charge of the ordinary gang?

A. Their luna down there.

Q. At all times or just what you call the ordinary times?

A. He had charge when the coal ship was not in, just for doing ordinary work.

Q. And when the coal ship was in under whose orders was it then—were the ordinary gang?

A. They were all subject to Mr. Ward's orders.

Q. And when the coal ships were not in where would these men be employed?

A. What, the regular gang?

Q. Yes.

A. They would be employed at the conveyor bunkering steamers and cleaning up, any old thing.

[409—331]

Q. During these times that the coal ships would not be in who would employ the gang on the elevator, on the conveyor?

A. The luna down there in charge if he had to have men. They had a regular gang there that had been there for a long, long time most of them, but if one of them left he would simply get another man in his place.

Q. Now, what if anything, Mr. Gedge, had you to do with the giving orders to those men as to what

(Testimony of N. E. Gedge.)

work should be done by them?

A. I never gave the men individually any orders, I would tell the luna down there about our steamers that were coming for bunkers or if we had an order for coal for plantations on the other islands I would tell the luna in charge, Akina, that the steamer would be down there for a hundred tons of coal or Kilauea Plantation or Kekaha Plantation wherever it went to.

Q. For the different plantations on the islands?

A. Yes.

Q. As to the actual work what had you to do with the actual work of the loading of the vessels after you had given orders or anything, if so much coal was required what had you to do with the actual work of seeing whether the vessels were loaded?

A. I had nothing to do with that at all.

Q. What, if anything, had you to do with the question as to how these towers of the coal-conveyor should be operated?

A. That is entirely up to the man in charge.

A JUROR.—Who?

A. Ward, if he is there. Ward would be always there when the ships would be discharging, they would be under his direction.

Mr. STANLEY.—You have heard the testimony of Mr. Akina in this case that you would give him orders as to the moving of these towers from time to time is that so? A. No, sir.

Q. Now, when a coal vessel would come in you say you would employ an extra gang?

(Testimony of N. E. Gedge.)

A. An extra gang would be employed, yes, sir.  
[410—332]

Q. Those would be stevedores, I presume and others?

A. Well, there would be an extra gang on the coal-conveyor and there would be stevedores working on board the vessels.

Q. And by whom would those men be employed?

A. The men on the conveyor would be employed by Mr. Akina and stevedores on board the steamer I would employ and take a list of their names.

Q. Now, tell us what you are presumed to do or did when these coal ships were in port?

A. Nothing further than what I told you before, simply watching the progress of the work, seeing that it went along smoothly and that our agreements were being lived up to.

Q. Well, did you do anything, Mr. Gedge, in connection for instance with the taking the time of the men?

A. Well, I used to keep a record of the discharging of cargoes and see what was going on, come up to the scale-house and get the hour that they discharged and kept a record of it for a comparison.

Q. I am talking about taking the time of the men who were working on the coal ship?

A. I checked them off when they went aboard in the morning and when they went aboard at one o'clock in the afternoon and when they came ashore at night. At times that I didn't check them off I had a man by the name of Dick at our scale-house in the

(Testimony of N. E. Gedge.)

yard and I would give him the book and he would check them off and send the book up to me.

Q. What was your object, Mr. Gedge, for being down on board those coal ships?

Objected to; objection sustained.

Q. What, if anything, Mr. Gedge, had you to do while these coal ships were on port after directing the discharge of the different holds?

A. I did nothing as to the direction of the discharging.

Q. What, if anything, had you to do or did you do in connection with giving orders as to the moving of the towers from place to [411—333] place over the different holds? A. I never gave the orders.

Q. By whom were such orders given—were such orders given? A. Such orders were given.

Q. From time to time? A. From time to time.

Q. By whom were those orders given?

A. Mr. Ward would give those orders.

Q. It has been stated here by Mr. Ward, Mr. Gedge, that his duties down there were principally on the coal ship but any orders—when ordered or called he would have to go on the coal ship, is that so? A. No, sir.

Q. As I understand it from you he was in charge of the whole plant while the coal ships were in.

A. He did, he had charge of the whole plant.

Q. And under whose direct orders was Akina during those times?

A. Under Mr. Ward's orders.

Q. Mr. Gedge, you stated that Mr. Ward was hurt



(Testimony of N. E. Gedge.)

about the 8th of July, 1912, state whether or not at that time any coal ships were in port.

A. Yes, sir, there were, there was a coal ship discharging at that time.

Q. Had there been any trouble of any extent between the arrival of that vessel and the previous one—and the departure of the previous one?

A. They were both in at the same time.

Q. And when did you learn that those vessels were expected?

A. The latter part of May and first part of June.

Q. The latter part of May or first part of June?

A. That is we had cables that they were to leave on a certain date and then about the 6th or 7th or 8th of June, they had already started, two of them had already started.

Q. Have you any memorandum, Mr. Gedge, by which you would refresh your memory, by which you know that those vessels were expected?

A. I have some cables that they sent us, I think Mr. Sutton has them, I am not sure. [412—334]

Q. I will just ask you to look at those cables which you refer to and state, Mr. Gedge, when you first learned that these coal vessels were definitely expected?

A. The first cable is the expected arrival of the steamer "Mogi," on April 4th.

Q. What is the date of it, refresh your memory as to when you first learned it?

A. On the 31st day of May.

Q. And departure—I don't care about departure.

(Testimony of N. E. Gedge.)

A. On May 31st.

Q. You knew at that time that one vessel was expected to arrive early in June?

A. About the latter part of June. The second one was the steamer "Corona," she was expected on the 31st.

Q. 31st of what?

A. May 31st that she was expected to load and expected to dispatch on the 5th day of June. Another one was the third cargo to arrive, the first news of this cargo was on the 13th?

Q. So that by the end of May, Mr. Gedge, I understand you now, you had three coal vessels that were to arrive towards the end of June or beginning of July?

A. Yes, two at the latter part of June and one at the end of July.

Q. Before leaving that I just want to ask you one question to clear up, to testify Mr. Gedge, that you had nothing to do with the directing of how these towers were to be moved or where they should be moved; I will ask you had you anything to do, Mr. Gedge, as secretary and treasurer of the company or watching things on the outside with the stationing of men at the different positions around the towers or in the ship? A. No, sir, absolutely nothing.

Q. Now, just to go back to the coal vessel, you say that stevedores were employed there when a vessel would be in for the purpose of seeing to the discharge of cargo, state whether or not there were any foreman over those stevedores?

(Testimony of N. E. Gedge.)

A. There was [413—335] always a foreman over the gang, each gang.

Q. Now, a vessel being unloaded, how many foremen have you?

A. Two, always working two gangs at one time.

Q. And what were the duties of these foremen?

A. To see that the men attend to their work and carried on the work properly.

Q. In the different holds?      A. Yes.

Q. Now, Mr. Gedge, do you remember the fact of the installing of a new drum at the conveyor prior to the arrival of these three vessels, the arrival of which you received notice of as early as May 31st?

A. Yes, I remember that.

Q. Do you know when that drum was installed?

A. It was installed about the 5th or 6th day of June.

Q. Now, state whether or not you had any conversation with Mr. Ward or anybody else in connection with the installing of that drum and let the jury know the circumstances connected with the conversation.

A. Why, at the conveyor, Mr. Akina called my attention to the fact that the drum was worn and that the cable was tangled on the drum and pointed out just what he thought was the cause of it, and I told him—

Q. What did he say, Mr. Gedge, you say pointed out what he thought was the cause of it. What did he say was the cause of it?

A. He said because the drum had worn the

(Testimony of N. E. Gedge.)

shoulder on it, I don't know exactly what he meant, it was the wearing of the drum.

Q. And that was the cause of it, did he say?

A. That was the cause of the cable tangling on the drum.

Q. All right, what did you say?

A. I told him that I would see Mr. Muirhead and have Mr. Ward sent down to examine it.

Q. Where was Mr. Ward working, was there a coal ship in at that time?

A. No, there was not a coal ship in at that time.

Q. Where was Mr. Ward working when the coal ship was not in?

A. At the machine-shop. [414—336]

Q. Under whose direct supervision?

A. Mr. Muirhead.

Q. Well, having told Mr. Akina that, what did you do?

A. I went up to the shop and Mr. Ward went down and put the new drum in, examined it, then said the new drum had to go in and he put a new drum in.

Q. Now, was any suggestion made to you at that time—oh, I will ask how long was this before the drum was restored—how long were these conversations, the conversation with Akina before the drum was installed?

A. I think the drum was restored—was installed the same day.

Q. Where was that drum kept prior to being installed?

(Testimony of N. E. Gedge.)

A. We always have one or two drums right in the engine house.

Q. State whether or not any suggestion was made by Akina during the conversation before you saw Mr. Ward that the new cable should be put in.

A. No, sir, absolutely none.

Q. If such a suggestion had been made, state whether or not there was any cable that could have been put in.

A. Yes, sir, there is always a spare cable right in position ready to put in at any time.

Q. Where is the spare cable kept?

A. Right in front of the engine-house.

Q. On the wharf?

A. On the wharf, under the conveyor.

Q. Did you at that time promise Akina or state to Akina that a new cable would be put in?

A. No, sir, I did not.

Mr. DOUTHITT.—There is no statement of that kind in this record, we do not claim that. Mr. Akina never said that Mr. Gedge promised to put in a new cable.

Mr. STANLEY.—Now, Mr. Gedge, when Mr. Ward—were you present when Mr. Ward examined the drum at the coal-conveyor?

A. Yes, sir, I was there.

Q. State whether or not you were present—I will ask you who installed the new drum?

A. It was installed under [415—337] direction of Mr. Ward.

Q. Who was present when it was being installed?



(Testimony of N. E. Gedge.)

A. The workmen about the place, I could not tell you just who it was.

Q. Where was Mr. Ward?

A. In the engine-house.

Q. State whether or not at the time that Mr. Ward came—I understand Mr. Ward went down with you to the engine-house, did he?

A. I would not be positive, probably I did drive him down if I happened to have the use of the automobile I would have taken him down.

Q. State whether or not at the time that Mr. Ward examined the drum or at any time while the drum was being installed under his supervision any complaint was made by Mr. Ward as to the condition of the cable.

A. No, sir, there was no complaint whatever.

Q. State whether or not at either of those times any suggestion was made by Mr. Ward that a new cable should be put in. A. No, sir.

Q. If such a suggestion had been made by Mr. Ward would you have put in a new cable?

A. Mr. Ward could have put the new cable in.

Q. What is that, Mr. Gedge?

A. I say Mr. Ward could have put the new cable in.

Q. State whether or not there was any necessity for Mr. Ward to consult you before putting in the new cable or a new drum.

A. No, he didn't have to consult me.

Q. As I understand, no complaint was made to you about it? A. No, sir.

(Testimony of N. E. Gedge.)

Q. Mr. Ward has testified in this case that Mr. Akina—that Mr. Ward said to you when he was examining the drum that you had to put in a new drum and a new cable and that you said that never mind the cable we will put in a new drum and he said all right, I will follow your instructions. Did anything of that kind happen? A. No, sir. [416—338]

Q. I will ask you whether or not—you at that time, did you and testified that coal vessels were expected towards the end of June? A. Yes, sir.

Q. State whether or not, Mr. Gedge, any inspection or overhauling was made of the conveyor prior to the arrival of those vessels. A. Yes, sir.

Q. When did the first of those vessels arrive?

A. About the 26th day of June.

Q. And about when was this overhauling and inspection made?

A. About the 20th of June or 21st, somewhere around there.

Q. And do you know by whom or under whose supervision that inspection was made?

A. By Mr. Ward.

Q. What exactly, Mr. Gedge, do you mean by an inspection?

A. Well, I had instructions from Mr. Kennedy, the general manager, that whenever a coal steamer was expected that I was to have Mr. Ward—Mr. Muirhead send Mr. Ward down to the coal-conveyor to see that everything was in proper order.

Q. That everything was in proper order?

A. Yes, sir.

(Testimony of N. E. Gedge.)

Q. What do you mean by everything?

A. Everything in connection with the conveyor to be in proper order so as to discharge the vessel.

Q. Now, how do you know that the inspection and overhauling in this case somewhere about the 20th of June, was made by Mr. Ward?

A. I saw Mr. Ward down there.

Q. State whether or not any complaint was made by Mr. Ward as to anything at the conveyor at the time of that general inspection and overhauling?

A. No, sir, no complaint.

Q. You were down there every day, I understand, or almost?

A. Yes, sir, once a day, sometimes I was down there twice a day often.

Q. That would be when there would be no coal vessel in?

A. When there would be no coal vessel in I would go down there every morning, sometimes afternoon, too. [417—339]

Q. Would you be down there more or less often than when a coal vessel would be in?

A. Less frequently, I wouldn't be down there as frequently during our work as when there would be a coal vessel in.

Q. Now, you say no complaint was made by Mr. Ward that there was anything wrong with the coal-conveyor? A. No, sir.

Q. Did Mr. Ward express himself at all to you as to the conditions of things down there? A. Yes.

Q. To what effect?

(Testimony of N. E. Gedge.)

A. He stated that everything was in good order.

Q. How did the work, Mr. Gedge, after the arrival of the first coal ship on June 26th progress?

A. Rapidly.

Q. State whether or not there was any trouble out of the ordinary with the plant.     A. No, sir.

Q. The appliances there?     A. No, sir.

Q. State whether or not any complaint was made to you prior to Mr. Ward's accident of the condition of the cable?     A. No, sir, there was not.

Q. Mr. Gedge, between the time that the new drum was installed and the time of Mr. Ward's accident, had you occasion to observe the condition of the cable?     A. Between when?

Q. Between the time the new drum was installed—I will ask the question did you observe when Mr. Ward and Akina were down at the engine-house just prior to the installation of the drum and the time of the installation of the new drum did you observe the condition of the cable?

A. Not particularly.

Q. So far as you could observe what was its condition?

A. So far as I could observe the cable was all right.

Q. It has been testified in this case by several witnesses that—by two witnesses that the cable through its entire length was in such condition that the little wires were sticking out of it through its entire length, anywhere from one-sixteenth of an [418—340] inch up to an inch. It is testified to by Mr.

(Testimony of N. E. Gedge.)

Ward from what he saw of the drum that these wires were sticking out in places, was there anything of that nature from what you observed?

A. I did not observe anything of that nature of the wires sticking out. Very often we see small wires broken laying flat on the cable. That is a common occurrence after it has been in use a long time. I never saw anything sticking out a quarter of an inch or an inch.

Q. Explain to the jury what you mean by little wires laying flat?

A. These wires sometimes crack in going around the pulleys and one thing and another and grips of the cars so far as I know keep them flat, laying flat on the cable there in their place showing the wire.

A JUROR.—Then, you would have to go very close to see that they were cracked?

A. Just standing down and taking a look at it you would see the outside wire of the strand was broken in two, the strand itself, but the outside strand from the excessive use.

Q. You noticed the cracks on them, but still they are together.

A. They would be together, they would not be standing up, the grip of the car—

Q. When the cable is around the drum did you notice whether the cable was in bad shape at all?

A. The cable was not in bad shape as far as I could see.

Q. Nothing sticking out?      A. No, sir.

Mr. STANLEY.—One of the jurors has put it a



(Testimony of N. E. Gedge.)

wire sticking out about an inch; was there anything of that condition on the cable when it was on the drum?

A. No, sir. These wires are so small they could not begin to stick up an inch, the wires are very short here.

Mr. DOUTHITT.—Never mind about this, Mr. Gedge, you are not a mechanical expert; we object to the question and object to Mr. Gedge arguing to this jury. [419—341]

Mr. STANLEY.—Did you see, Mr. Gedge, any condition in that cable where the wires were sticking out perpendicular to the face of the cable at all at a distance from one-sixteenth—anywhere from one-sixteenth up to an inch. A. No.

Q. If there had been any such condition, Mr. Gedge, would you have observed it? A. I would.

Q. What was the condition of the cable, Mr. Gedge,—of course, you are not an expert as to its strength or anything of that kind,—but what was its apparent condition? A. It was in good order.

Q. Wait a minute, I say its apparent condition at the time that you saw it on that drum up to the time of the accident to Mr. Ward?

A. It was in good condition.

Mr. DOUTHITT.—We move to strike that out on the ground that it calls for the conclusion of the witness and move to strike the answer out.

Mr. STANLEY.—That is right.

The COURT.—The motion is granted.

Mr. STANLEY.—How did that cable, Mr. Gedge,

(Testimony of N. E. Gedge.)

compare in appearance, we will say, with this cable, with the section of the cable here which has been admitted in evidence; in appearance between the time it was examined on the drum or seen on the drum and the time of Mr. Ward's accident?

A. Well, the cable had been in use a number of months and it would not be the same as a new cable, it was worn.

Q. Now, tell the jury how that wearing was apparent, what were the outward indications of its being worn and to what extent?

A. Well, the surface of it wears down after it has been used, the surface of the cable wears down.

Q. I am not talking about what happens usually with cables, I am asking about what happened in this cable at the time that Mr. Ward was hurt; how did that cable compare in general appearance [420—342] with this section of the new cable; if it is different from it tell us where it is different?

A. Well, there is a difference in the way that the thing has been in service for months and worn down I cannot tell you just exactly—

Q. When you say worn down do you mean that it has become smaller or what do you mean, were there any signs of fraying it or anything of that kind?

A. No, it was probably worn down slightly in diameter, I don't know just how much, but the cable wears off and wears the wires.

Q. You have spoken for instance about some little wires lying down?

A. Yes, little wires broken lying down.

(Testimony of N. E. Gedge.)

Q. And were those apparent on this cable before Ward was hurt?   A. Yes, sir, there were some.

Q. But you say there was nothing sticking out or anything of that kind?   A. No, sir.

Q. State whether or not any of these strands of the cable had been broken or anything of that kind.

A. No, sir.

Q. And how often, Mr. Gedge, would you have occasion or had you occasion to observe the condition of the cable?

A. Oh, I would be on the conveyor a number of times, I could see the cable running there, I could see the cable when it was not running.

Q. And up to the time that Ward was hurt was the machinery there running, we will say, was the cable doing its work, the ordinary amount of work or otherwise?   A. Yes, doing good work.

Q. Was any complaint made to you about the cable at all?   A. None whatever.

Q. Or that there were any unusual delays in the progress of the work?   A. No, sir.

Q. Mr. Sutton suggests where it was that you had occasion to observe the condition of the cable?

A. On top of the conveyor.

Q. Well, at any particular point or generally?

A. From [421—343] the scale-house that is where I usually stood.

Q. If there had been anything in the appearance of the cable that would indicate that it was worn out or anything of that kind would you have seen it?

A. I am sure that I would.

(Testimony of N. E. Gedge.)

Q. Now, Mr. Gedge, do you mean anything of the cable leaving the trolleys on the Saturday prior to Mr. Ward's accident? A. No, sir, not at all.

Q. If the cable had left the pulleys or trolleys would it have been anything unusual?

A. No, it would not have been.

Mr. DOUTHITT.—At what point?

Mr. STANLEY.—Any place.

The COURT.—Any point at which there are pulleys?

Mr. STANLEY.—Sure.

Q. Mr. Gedge, have you seen that cable off the pulleys? A. I have.

Q. Well, I am speaking, of course, this is prior to Mr. Ward's accident, any other time would be immaterial; how frequently have you seen that?

Mr. DOUTHITT.—That is objected to as incompetent, irrelevant and immaterial, unless the conditions are all shown.

Mr. STANLEY.—We propose to show the condition under which the cable leaves the pulleys from actual observation.

The COURT.—It is for the jury to say whether or not it was due to defects in the cable or the fact that there was some additional strain put on it.

Objection overruled. Exception.

(Last question read.)

Q. Have you seen the cable off the trolleys?

A. I have.

Q. The question is how often have you seen the cable off the trolleys; is that a very rare occurrence?

(Testimony of N. E. Gedge.)

A. Every now and then I have seen the cable off the dollies—off the pulleys.

Q. And what were the conditions at the place where the cable was off. I am not asking you as to any explanation as to how it [422—344] was off or what made it come off, but what were the conditions immediately at the place where the cable was off? A. Cars at the curves—

The COURT.—You stated every now and then, Mr. Gedge, that conveys no idea; how frequently can you say?

A. No, but frequently. I can say almost every time we have had a coal ship come in it has come off. Say five or six times at least, I cannot say.

Mr. STANLEY.—Do you mean five or six times in the three years in which the coal-conveyor was in operation, or what?

A. No, I think probably five or six times in the course of a year, no unusual number.

The COURT.—Your experience has been that the cable has come off the pulleys more frequently when the loaded cars were being hauled mauka than empty cars being hauled makai?

A. No, the empty cars.

Q. You say when the coal ship is in it comes off more than when you are loading your own vessels?

A. Yes, sir.

Mr. STANLEY.—You say that the conditions under which you have seen the cable come off the pulleys is when there were several cars on the curve?

A. On the curve.



(Testimony of N. E. Gedge.)

Q. How close together?

A. One car pushing other empties.

Q. Now, it has been testified in this case, Mr. Gedge—have you ever seen, Mr. Gedge, the cable off the trolleys under any circumstances where there has been no car in the immediate vicinity of the place where the cable has left the trolleys?

A. No, sir.

Q. You have testified with reference to the time of—you said that you know nothing about the cable coming off the pulleys on the Saturday previous to Mr. Ward's accident? A. No, sir.

Q. State whether or not you had any conversation in reference [423—345] to that cable, in other words at any time on that Saturday.

A. No, sir, I did not.

Q. It has been testified—you heard the testimony of Mr. Ward in this case, Mr. Gedge? A. I have.

Q. That on Saturday, this particular Saturday, June 4th, some time in the forenoon, during the noon hour, perhaps, that Mr. Ward told you that the cable had come off the pulleys, I think on account of its worn condition and there being a tendency to climb on the pulleys, and that you said that you would put in a new cable. Did anything of that kind transpire between you and Mr. Ward? A. No, sir.

Q. If a new cable had been put in whose duty was it to have seen that a new cable was put in?

A. Mr. Ward's duty.

Q. Now, Mr. Gedge, state whether or not the cable on which these cars—line on which—the cable of

(Testimony of N. E. Gedge.)

which this coal-conveyor consists of is one or more cables? A. One continuous cable.

Q. And how are the ends joined? A. Spliced.

Q. And in case of anything, either your installing—the company installing a new cable, who would do the—who would do the job of doing the splicing?

A. The actual splicing, Mr. Williamson.

Q. Do you know how that splicing is done?

A. I have seen it done, yes.

Q. What did it consist of?

A. It is a very long splice. I am no expert on splicing. They would take out one strand and lay another back in its place until they finally got to the end. It generally runs from sixty feet to a hundred feet. The ends are then cut inside of the cable.

Q. It is a question of weaving these strands in one another, is it not? A. Yes, sir.

Q. And who is Mr. Williamson?

A. Rigger working for [424—346] the company.

Q. A rigger?

A. Yes, a rigger. He is a chief officer who works at riggings and also aboard the steamers.

Q. Under whose supervision was the installation of the cable when spliced be done?

A. Mr. Ward was always there; it was under his supervision.

Q. Mr. Ward has testified that he had nothing to do with the installation of the cable, that that was done by Mr. Williamson?

A. Mr. Williamson would simply do the splicing,

(Testimony of N. E. Gedge.)

Mr. Ward would put the cable in place. Mr. Williamson would do the splicing.

Q. In case of any splicing coming out, some of the strands of the splicing coming out, that would be done—the replacing of the strands would be done by whom? A. Mr. Williamson.

Q. What was the cost, Mr. Gedge, of a cable such as was in use at the time Mr. Gedge was hurt?

Objected to as immaterial.

Mr. STANLEY.—We propose to show if we are allowed that while the demurrage on that vessel of five thousand tons is somewhere over four hundred dollars, the cost of the cable is so much less that it would be of no advantage to the company not to put in a new cable. We propose to show that if there had been a cable in the condition described that it would be dangerous to work, and not only dangerous to work but would cause delay in the unloading and cause the company a loss of several hundred dollars a day when a comparatively cheap cable could be put in, I mean cheap as compared with the amount of demurrage that the vessel would be paid.

Objection overruled. Exception.

Mr. STANLEY.—What, Mr. Gedge, was at the time of Mr. Ward's accident the cost of a new cable similar in all respects as to strands, diameter and wires?

A. The cost landed here [425—347] in Honolulu, runs from six and a half cents to eight and a half cents a running foot.

Q. The testimony is that the cable was some-

(Testimony of N. E. Gedge.)

thing like twenty-eight hundred feet long. Can you tell us roughly the cost of a cable without having to figure it out?

A. It would be from one hundred and sixty-eight to say one hundred and eighty dollars, for an Eastern cable, where a San Francisco cable would run about eight and a half cents, would be about two hundred and fifty dollars.

Q. A San Francisco cable would run about what?

A. Two hundred and forty dollars, somewhere around there, two hundred and forty.

Q. An Eastern cable, an Eastern cable would cost somewhere about one hundred and eighty dollars?

A. Yes.

Q. Well, what was this cable that you had in operation at the time Mr. Ward was hurt, an Eastern or San Francisco cable?

A. A San Francisco cable.

Q. That would be somewhere around two hundred and forty dollars?

A. Two hundred and forty dollars.

A JUROR.—Can I ask a witness a question? If there was any delay on loading a boat—getting coal out of the boat, was the cause of delay reported to Mr. Gedge, any delay while the buckets were running out?

A. No, it would not be reported to me. If I ain't getting the discharge I would know it in this way, there are so many tons gotten out there. There may be a chain broken—

Q. I cannot understand you.

(Testimony of N. E. Gedge.)

A. I say that I keep an hourly record of the discharge of steamers; if one hour dropped away down I would ask what was the cause of it. Very frequently a chain in the bucket would break or maybe a hoist rope in the bucket would have to be fixed which would delay the work a half an hour. [426—348]

Q. Would the delay be reported to you?

A. No, I would ask why this was.

Q. Then these towers are delayed when the cable is not running? A. The towers?

Q. That is, can the bucket still continue to come up; if the cable is not running down below can the cable stop the tower?

A. No, it has no connection at all.

Q. Each tower has an independent engine?

A. Each tower has an independent engine supplied it.

Q. In connection with the splicing of this cable, Mr. Gedge, you say that one strand was taken out and another put in?

A. You take out the two ends that are wrapped on each side and you take that one strand back to a certain distance and you lay the other strands in.

Q. At the extreme ends of that splice where the ends come in to one another to finish the splice was the diameter of that cable increased?

A. No, they take out the heart of the cable, the center or core, they take those out and put those in.

Q. So the diameter is not increased, it remains the same diameter?



(Testimony of N. E. Gedge.)

A. No, of course this core is a very small fraction and it is pulled out.

Q. I understand then if the cable of the coal-conveyor is off has not been simply stopped the cars going up from the ship below and unless the hoppers are down low will have to stop?

A. They would have to stop.

Q. They have no place to put the coal?

A. Yes, if the hoppers would be full.

Mr. STANLEY.—As I understand you, you stated to Mr. Hampton the fact that the buckets were not running or anything of that kind was not reported to you?

A. No, unless there was a material difference in the discharge of the coal.

Q. If there was a material difference, from hour to hour in [427—349] the discharge of the coal, what would you do?

A. I would simply ask how is it that you drop from one hundred and fifty tons down to fifty tons, like that.

Q. And did any such thing occur on the Saturday previous to Mr. Ward's being hurt? A. No, sir.

Q. Is there any difference, Mr. Gedge, in the amount of coal—let me ask you in the light of Mr. Hampton's questions, you say that you would keep tab upon the amount of coal taken out per hour?

A. Yes.

Q. Do you mean that you would stay there from hour to hour?

A. No, I would go to the scale-house and take the

(Testimony of N. E. Gedge.)

amount of weighing.

Q. Would you go there every hour?

A. No, if I happened to be there I would go over and copy it off his list, copy it off from the records.

Q. At night when there was everything reported if there was a delay reported in unloading the vessel you would want to know why?

A. Yes, I would have to know why.

Q. How long would those buckets have to be shut down to show a material difference in the hour's run?

A. It all depends if the coal is moving fast, if it is shut down to fifteen or twenty minutes in that way it would show quite a little difference between twenty minutes and half an hour, it would depend merely on what had to be done, what happened.

Q. And when you say it is running fast then you mean it would be running all right? A. Yes.

Q. Now, under what conditions have we got the buckets running frequently, that is more frequently than others?

A. Because when we first start to work on the cargo coal comes out very rapidly; when we get down to where there is very little coal in the hatches if there is to be trimmed out underneath the hatch where the grip can get it and it will run away down to [428—350] one-third or one-quarter of what it will go when it is running fast. It is very slow when getting the last part of the coal out of the hold.

Q. When you get right down to the skin of the vessel?

A. Yes, when there is a little coal left in the back

(Testimony of N. E. Gedge.)

ends then it has—

Q. When this coal has to be chucked by hand?

A. Yes, has to be shovelled.

Q. Under the grip?     A. Under the grip.

Q. Whereas when the hold is first opened and some distance down why the grip comes down and then automatically takes the coal out?

A JUROR.—As a usual thing do the cars keep the hoppers clean, that is the movement of the cars keep it empty?

A. If they are running fast they won't keep them empty; there will be coal in the hopper all the time, some coal. If it is running slow the cars are waiting.

Q. They don't get ahead of the cars?

A. When it is running very fast first working on the cargo.

Q. How long does it take to fill the car working, what rate?

Mr. STANLEY.—Mr. Ward said the grip will make a return trip, it will come down to the hold, get its load and deposit in the hopper and is back again in half a minute.

The COURT.—Half a minute to forty-five seconds.

Mr. STANLEY.—Around there, a half a minute was when it was running fast. When it was going slow down, the bucket, it was forty-five seconds, in going lower down he said about a minute.

A JUROR.—That is what Mr. Ward said; I wanted to know what Mr. Gedge thought about it.

A. Coal has come out there all the way from less

(Testimony of N. E. Gedge.)

than tons an hour up to I think two hundred and eighty tons, frequently [429—351] we have taken away two hundred tons an hour. One hundred and fifty, one hundred and sixty, one hundred and seventy, one hundred and eighty.

Q. Out of the two towers?

A. Out of the two towers.

Mr. STANLEY.—And running down as low—

A. As fifty and even a little lower if we have to wait there to have the men shovel the coal under the hopper.

Q. Do you remember on the occasion of this Saturday of the—in what condition the cargo was?

A. Yes, sir, we were finished up a couple of holds on that steamer at that time; if I am not mistaken she went away on Tuesday.

Q. As a matter of fact, Mr. Gedge, you looked that up for me, did you not?

A. Yes, we were coaling at a couple of holds.

Q. What do you mean as to the difference there is in the discharge of coal vessels and when you get right down near the end? A. Yes, sir.

Q. Near the bottom? A. Yes, sir.

Q. For instance, could you tell us how the coal was coming out per hour on the 6th of July, that is the Saturday before Mr. Ward was hurt?

A. I could if I refer to a book I keep.

Q. You cannot speak from memory? A. No.

Mr. STANLEY.—Have you any objection?

Mr. DOUTHITT.—No.

Mr. STANLEY.—Now, Mr. Gedge—do you know,

(Testimony of N. E. Gedge.)

Mr. Gedge, what the width of the ties on the coal-conveyor is?   A. Yes, sir.

Q. What is it?   A. Four feet.

Q. That is between the outside, the extreme width?   A. The extreme width.

Q. And do you know the distance between tracks?

A. At that point is twenty inches.

Q. At what point do you mean?

A. Down there at the curve. [430—352]

Q. Indicating the curve where the eight pulleys are?   A. Yes, sir.

Q. The makai and the mauka side of the eight pulleys?   A. Yes, sir.

Q. Is that the gauge of the track?

A. That is the inside.

The COURT.—Q. That is the same all over the conveyor, is it not?

Mr. STANLEY.—No, your Honor.

A. No, there is something on the track, the track is a little bit wider there on the curve.

Q. At the point from where you made the turn?

A. I don't know, the inside of the track is wider but on the outside of the rail there is an extension.

Q. What is that, Mr. Gedge?

A. The inside is twenty inches.

Q. And from the outside of one rail to the outside of the other?

A. Twenty-three and one-half inches.

Q. Now, Mr. Gedge, at the time of Mr. Ward's injury can you state how—I will ask you what is the distance, Mr. Gedge, between the ties and the



(Testimony of N. E. Gedge.)

stringer supporting the various stanchions?

A. There is a steam box that goes down here.

Q. Answer my question first: What is the difference between the ties and the stringer that supports the stanchions around the conveyor on this makai end?

Mr. DOUTHITT.—Do you know, Mr. Gedge?

Mr. STANLEY.—How far, do you know?

A. Do you mean how much is it elevated?

Q. How much is the tie elevated above the stringer?

A. Ten inches, about ten inches. I thought you said out from here.

Q. From the tie down to the stringer?

A. About ten inches.

Q. And what is the size of width of the stringer, if you know? A. Ten by ten.

Q. And is there any other contrivance or was there at the [431—353] time of the accident on this coal-conveyor outside of the ties beyond what is shown on this model?

A. There is a pipe covered by a one by twelve across forming a steam box down there, I think it is a one by twelve across.

Q. That runs on the outside—on the inside of the stanchions, does it?

A. It runs right down along here.

Q. On the inner side of the stanchions?

A. Yes, sir, on the inner side of the stanchions.

The COURT.—On the stringers?

Mr. STANLEY.—On the stringers.

(Testimony of N. E. Gedge.)

A. It is up here.

Mr. DOUTHITT.—It is—

A. Between the ties and the platform, you have all seen it. It is between the ties and the platform it runs all the way down between the ties and the platform so that you step right from here onto that and step over.

Q. On which side of the stanchion is that box?

A. I am not sure whether it is on the inside, no it is there.

Mr. DOUTHITT.—There is a steam-pipe in the box, is there not?

A. Yes, a steam pipe in the box.

Mr. STANLEY.—And if you want to go from the ties, Mr. Gedge, over to that, I am speaking about the time of the accident as I understand, the platform is further in now, if you wanted at the time of the accident to go from the tie to the platform state whether or not you could do it by going through these alternate stanchions?

A. Yes, you could step right down from the tie onto this ten by ten stringer and then up onto the box and onto the platform.

Q. Mr. Gedge, are you familiar with the prices ruling or the wages ruling in Honolulu for work done by men tallying cargoes.

Objected to as incompetent, irrelevant and immaterial.

Mr. STANLEY.—We propose to show that Mr. Ward is capable of doing that kind of work. We intend to connect it with other [432—354] evi-

(Testimony of N. E. Gedge.)

dence, showing that Mr. Ward could do it.

The COURT.—As affecting the amount of damages?

Mr. STANLEY.—Yes, sir.

Objection overruled, on counsel's promise to connect it up to show that Mr. Ward could do this class of work. A. What is the question?

Mr. STANLEY.—What are the wages ruling in Honolulu for the work of tallying cargo out of vessels and into vessels? A. Four dollars per day.

Q. Well, is that the price that prevails right through Honolulu, is that the maximum or minimum, the average or what?

A. I know I have to hire men frequently to tally out sugar and I have to pay always four dollars a day, and I believe that is what is paid at the Hawaiian wharves to-day.

The COURT.—Is employment of that character frequent or infrequent in Honolulu?

A. There is a great deal of tallying work going on around about the wharves, a good deal of tally work.

Mr. STANLEY.—What is that?

A. A great deal of tally work for the American-Hawaiian and Matson Navigation Company.

Q. Now, Mr. Gedge, were you present on the occasion of the accident to Mr. Ward?

A. Beg pardon.

Q. Were you present on the occasion of the accident to Mr. Ward? A. I was not.

Q. Had you been down at the wharf prior to the

(Testimony of N. E. Gedge.)

accident? A. I had.

Q. On that morning? Yes, sir.

Q. Had you seen Mr. Ward? A. I had.

Q. Where had you seen Mr. Ward, on the wharf at the conveyer?

A. On the wharf at the conveyer pier.

The COURT.—Prior or subsequent to the accident? [433—355]

A. Prior to the accident.

Mr. STANLEY.—And about what hour was that?

A. Well, I saw him before seven o'clock, and I think I saw him a little before eight o'clock when I went to town.

Q. And where did you next see Mr. Ward?

A. At the Queen's Hospital.

Q. State whether or not you saw Mr. Ward at the hospital once or more than once?

A. I saw him twice that I am sure of, I think three times.

Q. How long was Mr. Ward in the hospital?

A. Mr. Ward was in the hospital about fifty-six days according to the bill.

Q. State whether or not you visited the hospital on other occasions when you didn't see Mr. Ward and while he was there? A. Just to make inquiry.

Q. Now, Mr. Gedge, at any time while Mr. Ward was in the hospital had you any conversation with him in reference to the accident and how it occurred?

A. I did.

Q. State who was present.

A. Mr. Ward was just sitting on the opposite side

(Testimony of N. E. Gedge.)

—was sitting on the verandah outside his room in the invalid's chair.

Q. And what was said?

A. We spoke about his health and also about the accident.

Q. Was anything said about how the accident occurred? A. Yes, we talked about it.

Q. What was said?

A. Well, we talked about the accident and I asked him why he—well, I said, George, why in hell did you ever try to put that cable back without raising the weight?

Q. And what did he say to that?

A. Well, he said he didn't know, but he thought he could save some time, I suppose I was foolish; I thought I could save some time.

Q. I thought was foolish, I thought I could save some time? [434—356]

A. I suppose I was foolish, I thought I could save some time.

Q. Now, who attended, Mr. Gedge, on behalf of the company to Mr. Ward's accommodations in the hospital? A. I did.

Q. And who paid?

A. The Inter-Island. I paid the bills.

Q. Now, what accommodations was Mr. Ward given? A. Private room, private nurses.

Q. How many nurses?

A. He had two for a short time and one all the time.

Q. And by whom were those nurses paid?



(Testimony of N. E. Gedge.)

A. Paid by the Inter-Island.

Q. And the private room was paid for?

A. The private room was paid for by the Inter-Island.

Q. State whether or not Mr. Ward had a private physician?     A. He did.

Q. Who was that?     A. Dr. Straub.

Q. And who paid for the services of Dr. Straub?

A. The Inter-Island.

Q. Can you state, Mr. Gedge—up to what date was Dr. Straub paid by the Inter-Island?

A. Up to March 15, 1913.

Q. You mean that was the date of Dr. Straub's last bill or the date of your payment?

A. His bill was dated the 18th; we settled with him in full up to the 15th of March.

Q. And can you tell us how much was paid to Dr. Straub?

Objected to as immaterial.

Objection sustained.     Exception.

Q. You say Dr. Straub was paid up to March 15th, 1913?     A. Yes, sir.

Q. Now, what moneys if any were given to Mr. Ward?

A. Regular wages were paid up to and including the 8th day of March.

Q. From the time of his accident were any moneys paid Mr. Ward after his accident?

A. Yes, he was paid regular pay [435—357] to and including the 8th day of March, 1913.

Q. At what rate?     A. Five dollars per day.

(Testimony of N. E. Gedge.)

Q. Can you tell us how much in all was paid for wages? A. How much?

Q. How much in all was paid giving his wages?

A. About a thousand and fifty dollars.

Q. Do you know, Mr. Gedge, in connection with the cable that was used by the company before the accident how long—what was the greatest length of time the company could use the cable?

A. Previous to his accident?

Q. Surely.

A. The longest we used was fifteen months.

Q. State how did that cable compare in diameter, the number of strands and wires with the cable in use when Ward was hurt?

A. The same exactly.

Q. Could you say exactly whether or not that cable was in use immediately prior to the one that was in use when Ward was hurt or when was it?

A. Yes, previous to the one.

Q. Was it the one immediately previous to that one?

A. Yes, sir, immediately previous to the one.

Q. I will ask you, Mr. Gedge, what power is being used on the coal-conveyor at the present time?

A. Electric power for part and steam for other parts.

The COURT.—What?

A. Electric power for the cable and steam for the towers.

Mr. STANLEY.—And what power was used in June of last year during the occasion of the last

(Testimony of N. E. Gedge.)

trial? A. Steam.

Q. For the whole thing?

A. For running the cable, yes.

Q. I will ask you if at any time you were present when experiments were made to show what the effect of the cable at the lower makai end of the cable would be with the engines stopped and the weight—

Objected to as incompetent, irrelevant and immaterial.

Mr. STANLEY.—I want to show what effect there is on the cable on the makai end if the engine is stopped and weight is lifted [436—358] and done with a cable of exactly the same make to the cable at the time Ward was hurt and with the moving power of the cable the same.

Objection overruled. Exception. Exception allowed.

(Last question read.)

Mr. STANLEY.—The weight raised?

A. I was.

Q. At the time that that experiment was made, Mr. Ward—Mr. Gedge, how did the cable in use compare in size and weight with the cable in size in operation at the time that Mr. Ward was hurt?

A. The same size.

Q. At the time the demonstration was made, the experiment was made, what was the condition of the track and cars?

A. There are twenty cars, I don't remember how the cars were, there were cars on the track there were cars at different places.

(Testimony of N. E. Gedge.)

Q. There was cars at different places, how many cars were there?

A. There were twenty cars on the conveyor.

The COURT.—Were the grips of all the cars attached or unattached?

Mr. STANLEY.—We are coming to that, your Honor.

Q. Now, Mr. Gedge, what was done at that time?

A. The engine was stopped, the grips of the cars released and the men hoisted the box up.

Q. And when that was down what effect, if any, had those actions upon the cable at the makai end of the conveyor?

A. Standing down there the cable sagged on the ties between these rollers, that went all the way along.

Q. Where were you standing?

A. I was standing down there at the lower end.

Q. Who else was present, Mr. Gedge, when that was done?

A. I believe that you were there and Mr. Hemenway, Mr. Kennedy, Sheedy, Mr. Kopke and, I think, Mr. Young, I think Mr. J. M. Young, of the College of Hawaii [437—359]

Q. When you say the cable sagged, what do you mean by that; come up here and show us?

A. There are rollers all along the track here and the cable sagged down between these rollers to the ties.

Q. Sagged down onto the ties? A. Yes.

Q. And within what time, Mr. Gedge, after the various operations had been done, the shutting the

(Testimony of N. E. Gedge.)

engine, the lifting the weight, and releasing the grips, did this condition appear?

A. Almost immediately, you could see it commence to sag right away.

Q. And within what time was it on the ties?

A. What do you say?

Q. How long did it take before the cable sagged onto the ties?

A. Well, it was less than five minutes.

Q. State whether or not that experiment and demonstration any attempt was made to pull the cable from the mauka end one hundred and fifty, *fifty*, or any other number of feet, around until the cable sagged up at the makai end?

A. The cable was not touched at all.

The COURT.—Pardon?

A. The cable was not touched.

A JUROR.—How much of the pulleys extend above the ties, what I mean to say is how much of the pulley—

The COURT.—These dollies?

A JUROR.—Yes, how far did they extend above the ties?

A. I never took any measurements, but I should judge two inches at the highest.

Q. How much?     A. I never took any measurements.

Mr. STANLEY.—How much of the dolly itself or pulley itself extends above the floor of the track?

A. I could not tell you; they set down in a socket. The pulleys set down in a socket on each side and



(Testimony of N. E. Gedge.)

they are above the floor.

Q. Do you know whether or not Mr. Gedge the socket was resting [438—360] on the ties?

A. The socket sets down in the tie, the socket sets down, down below the surface of the tie.

A. JUROR.—Do you keep a record of the times you change cables? A. No, we do not.

Q. A record of when you change drums?

A. No.

Q. Do you keep a record of the rate per hour of the coal unloaded? A. Yes.

Q. By the towers?

A. No, only the weight of coal that passes over the scale.

Q. Well, you have records when you bought new cables?

A. Yes, I always keep cables in stock. We are the agents for the Roebling cable and we sell a good deal of wire rope all over the islands.

Q. Mr. Gedge, do you remember when you changed the cable that was in use when Mr. Ward was hurt?

A. Yes, sir, I remember about when they changed, about in August, 1911. I have reason to remember that cable for this reason—

Q. When did they put in—when did they take it off after Ward was hurt?

A. After Ward's accident?

Q. Yes. A. About six day, six days I think.

Q. After the accident? A. Yes, sir.

Q. Why was it taken out at that time, Mr. Gedge, if you know?

(Testimony of N. E. Gedge.)

Objected to as incompetent, irrelevant and immaterial.

Objection sustained. Exception.

Q. What was the condition of the splice of the cable, Mr. Gedge, at the time it was taken out?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained.

Mr. STANLEY.—I desire to make an offer of proof to save my rights.

The COURT.—You may make your offer of proof by consent of [439—361] counsel after the jury are excused.

Cross-examination of N. E. GEDGE.

Mr. DOUTHITT.—Mr. Ward was injured on Monday, the 8th day of July, 1912, Mr. Gedge?

A. Yes.

Q. The cable was taken out on Saturday, was it not, the following Saturday?

A. Saturday afternoon.

Q. Saturday afternoon? A. Yes.

Q. Then it was in use on the Monday after he was injured? A. Yes.

Q. Was in use Tuesday, Wednesday, Thursday, Friday and Saturday it was removed?

A. Yes, sir.

Mr. STANLEY.—I object to this as irrelevant and immaterial.

Objection withdrawn.

Mr. DOUTHITT.—When was that coal-boat discharged, Mr. Gedge, the one that Mr. Ward was in-

(Testimony of N. E. Gedge.)

jured on—at the time that George Ward was injured the coal-boat that was in?

A. Finished discharging on Tuesday the following day.

Q. And there was no more coal-boats at all?

A. Yes, there was, immediately started right on another.

Q. And did you finish that other one?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained. Exception.

Q. How long had that cable been in use, the one that injured George Ward, the plaintiff in this case?

Objected to. Question withdrawn.

Q. How long had the cable been in use at the time that George Ward was injured?

A. About ten months.

Q. It was installed while Ward was east, was it not? A. Yes, sir. [440—362]

Q. Now, Mr. Gedge, had you ever seen a cable in or a cable installed? A. I have.

Q. How long does it take to put in a cable?

A. To take the old one out and put in a new one and finish it on a Sunday or take one out in the afternoon you can finish it the next day.

Q. Now, will you please explain to us the method by which a new cable is installed?

A. The old cable is cut at the drum on the engine or close to it where they can get space enough to splice it onto the new cable. The new cable is pulled up onto the conveyor and as it goes out onto the con-

(Testimony of N. E. Gedge.)

veyor, the old cable is taken out and taken down on the wharf until the new cable is all in its place.

Q. Then the main part of the operation, Mr. Gedge, as I understand, is the splicing of the cable, is not that a fact?

A. The main work that is required is the splicing of that cable, the old cable has to be taken out and the new one put in its place.

Q. The main thing to do when you put in a cable is to have it spliced, that is the idea, of course, and running it around the coal conveyor by being taken around by the old cable, is not that a fact?

A. It may be that is a matter of opinion.

Q. My idea of it is this, that the main thing to be done when a new cable is installed is to splice the new one to the old one because the machinery takes it up when you start it and pulls it around the pulleys, is not that so?

A. With the assistance of the men of the conveyor.

Q. Yes, I understand, but let's get right back to it again. You have seen cables installed, Mr. Gedge?

A. Yes, sir, I have.

Q. And if you want to put on a new cable you cut the old cable first, don't you? A. Yes.

Q. Then you splice the new cable to the old cable, don't [441—363] you? A. Yes, a rough one?

Q. A rough splice? A. Yes, sir.

Q. Then the engine is started, is it not?

A. Yes, sir.

Q. Then the engine carries the cable right around the pulleys right around the coal-conveyor until you

(Testimony of N. E. Gedge.)

get it all around the coal-conveyor, and then it is spliced again, is it not? A. It is.

Q. Then the particular or the main work or the difficult work to that is the splicing of the cable, is it not? A. I presume it would be.

Q. You know, don't you, Mr. Gedge?

A. Well, I guess it is a serious part of the job.

Q. I don't want your guesses, I want to know whether it is so or whether it is not. The splicing at the beginning is merely a temporary splicing?

A. Yes.

Q. To get it attached to the old cable?

A. Yes, sir.

Q. Then when you get the cable all around the pulleys, Mr. Gedge, then it is respliced, is it not?

A. Yes, then it is put together.

Q. That is the whole job?

A. Yes, I guess you would consider that the principal part.

Q. That is the principal part of putting in the cable? A. It is.

Q. It is not the drawing around of that cable that takes the time, is it? A. No.

Q. It is the splicing of the old cable to the new cable or the new to the old, what do you call it?

A. It is a splicing of the two new ends together.

Q. It is the splice?

A. It is one continuous cable put together.

Q. The old cable only cuts a figure in the matter of *sufficient* to tie the new cable around to place in position? A. Yes, sir. [442—364]



(Testimony of N. E. Gedge.)

Q. Now, Mr. Williamson is a splicer and rigger, is he not?     A. Yes, sir.

Q. How long has he been in the employ of the Inter-Island Steam Navigation Company, Mr. Gedge?     A. Oh, a good many years.

Q. Was he a rigger or splicer at the time that Ward was injured?

A. He was a rigger and splicer. He spliced all the cable, I think, every cable that went in there.

Q. And at the time, Mr. Gedge, that this cable was first put in you employed a splicer or rigger, did you not, to splice that cable?

A. He was already in our employ.

Q. Who was that?     A. Mr. Williamson.

Q. Then Mr. Williamson, as I understand, was in the employ of the Inter-Island Steam Navigation Company at the time when the first cable was put in on this coal-conveyor?

A. The very first cable on the coal-conveyor.

Q. Yes.

A. Well, I could tell that by looking up the records.

Q. Give us your best recollection, Mr. Gedge?

Objected to as immaterial.

Q. Mr. Gedge, you testified that Mr. Ward superintended the installation of that cable?

A. Certainly.

Q. Then with regard to the actual installation as you have called it, Mr. Gedge, when the coal-conveyor was first started, what do you mean by installation, simply that Mr. Ward was there to see that it was done?

(Testimony of N. E. Gedge.)

A. Mr. Ward was there in charge of the conveyor. Mr. Williamson was subject to Mr. Ward's orders whenever he reported at the conveyor.

Q. Did Mr. Ward give Mr. Williamson any orders how to splice a cable?

A. I don't suppose he told him how to splice it.

Q. Was Mr. Ward a splicer of the Inter-Island Steam Navigation [443—365] Company?

A. No, sir, he was not.

Q. Don't you know as a matter of fact that Mr. Ward does not know anything about splicing the cable? A. No, I don't know it.

Q. You have never seen him splice a cable?

A. No, but I think he knew considerable about it.

Q. You think he did? A. Yes.

Q. That is only your idea?

A. That is my observation.

Q. Your observation? A. Yes, sir.

Q. But he never was employed by the Inter-Island Company for the purpose of splicing cables, that was done by a particular man, namely Mr. Williamson?

A. Yes, it was.

Q. And whenever there was a new cable installed at the coal-conveyor of the Inter-Island Steam Navigation Company, it was necessary, was it not, Mr. Gedge, to have Mr. Williamson there in order that the cable could be and would be properly spliced, in order that the cable could be put into operation?

A. He did the splicing.

Q. What is that?

A. Yes, he did the splicing.

(Testimony of N. E. Gedge.)

Q. When the new drum was installed, Mr. Gedge, that was reported to you, was it not, by Mr. Akina in writing?

A. Not in writing—after it was installed?

Q. Yes.      A. Yes, he did.

Q. Then in answer to Mr. Hampton's question you said that there was no record kept of the installation of drums, when new drums were put in, didn't you?

A. We don't keep any record.

Q. Don't you require the machinist or luna in charge of the coal-conveyor to tell you what is being done there if there is any new machinery required?

A. For a short time I had Mr. Akina make reports of what was going on down there in the daytime with his eight men. We had eight men employed down there with our steamers taking coal or anybody else, I wanted to [444—366] know what the men were working on and he made a regular report for a short time there of what was going on. That was only when there were not any coal ships in.

Q. Mr. Gedge, do you mean to say that you kept absolutely no record of when cables or drums were installed on the coal-conveyor?      A. No, sir.

Q. You did not?      A. No, we did not.

Q. You don't know then when a new cable was put in or when a new drum was put in?

A. No, I would know about the new drum if Mr. Akina had not called my attention or if I had not been down there at the time. I would know about the cable because something would be said about the cable.

(Testimony of N. E. Gedge.)

Q. In order to put in a new cable—we will confine ourselves to the drum now; in order to put in a new drum it was necessary for Akina to telephone up to you?      A. No, he didn't telephone to me.

Q. He did not?      A. No.

Q. Do you mean to say, Mr. Gedge, that on the occasion when a new drum was installed that Mr. Akina did not telephone up to you and tell you that the drum was out of order?

A. No, he did not, I was at the conveyor myself and I went into the engine-house and he called my attention to it.

Q. You are absolutely positive?      A. Yes.

Q. And you were up at the engine-house, not on the conveyor, that morning?

A. I was down there around at the conveyor to the coal-yard and to the Marine Railway, I generally go around in the mornings around the different places.

Q. Was it Akina's duty if the machinery was out of order, if the drum was out of order to put in a new one?      A. No, it was not.

Q. Whose duty was that?

A. It was always Mr. Ward's, it would have to be done under Mr. Ward's direction.      [445—367]

Q. How was it, Mr. Gedge, do you know why Akina came to you on that occasion and not to Ward?

A. Well, he could not leave his work to go up town, I was there, and I go there every day, every day.

Q. Ward was employed in the machine-shop on the corner of River and Queen streets?

A. Yes, sir.

(Testimony of N. E. Gedge.)

Q. Some quarter of a mile distant from the coal-conveyor? A. Yes, quite distant.

Q. And Akina came to you and told you about the drum? A. Spoke to me down at the conveyor.

Q. And then you went up to the machine-shops, did you? A. I did.

Q. And you got hold of Mr. Ward?

A. I got hold of Mr. Ward, and spoke to Mr. Muirhead.

Q. Well, you simply told Muirhead, I want Ward to go down there to the coal-conveyor?

A. Yes, no man is taken from any place—

Q. Without notifying the man in charge?

A. Without the permission of the man in charge there, that is the system in our office and business.

Q. You went up there simply for the purpose of notifying Muirhead that you wanted Ward down at the Inter-Island Company coal-conveyor.

A. I explained the reason why.

Q. And you explained the reason why?

A. Yes, sir.

Q. And Ward, under orders of Mr. Kennedy, had been employed while coal ships were in as the foreman of the conveyor?

A. Mr. Kennedy is the manager of the company and gave those instructions to Mr. Muirhead that that was Mr. Ward's duty.

Q. And you had authority, as secretary, as an officer of the company, did you not, Mr. Gedge, to go up there and get Ward and bring him down?



(Testimony of N. E. Gedge.)

A. Yes, I would have authority to do it through Mr. Muirhead.

Q. Was Muirhead over you or were you over him?

A. No, but [446—368] as I told you before, we did not interfere in any one of our departments, everything goes to the head of the department.

Q. Did you have authority to give Muirhead directions or orders?

A. No, Mr. Muirhead did not come directly under me.

Q. I know he does not come directly under you.

A. I would have authority to give Mr. Muirhead orders on account of stating that Mr. Kennedy has told me to do so and so and so and so, but I had not the authority to go and tell Mr. Muirhead to go and do anything.

Q. You did not?

A. No, I have not to this time.

Q. He was not an officer of the company?

A. No, he is not an officer of the company.

Q. And was not at that time?

A. No, he is the head engineer.

Q. What is that?

A. He is the superintending engineer.

Q. He is the superintending engineer?

A. Yes, sir.

Q. Over the entire works of the Inter-Island Steam Navigation Company? A. Yes, sir.

Q. And Mr. Ward was employed at the machine-shops of the Inter-Island Steam Navigation Company, and was merely a machinist, was he not?

(Testimony of N. E. Gedge.)

A. He was a machinist.

Q. He was a machinist up there. Now, you took Ward down to the Inter-Island Coal Conveyor in your machine, as I understand you, you may have done that?

A. I may have taken him in the machine.

Q. But at all events you went up to the machine-shop and he was brought down, it may have been, in an automobile? A. It may have been, yes.

Q. Now, when you got there, you say that you examined the cable, Mr. Gedge, you looked at it, did you?

A. I looked at it when I was standing there, yes. I saw the drum, the drum [447—369] was what I was looking at.

Q. But there was nothing to prevent you from seeing the cable was there? A. No, sir; there was not.

Q. Did you go upon the coal-conveyor that morning?

A. I probably did; I was up on the coal-conveyor every morning.

Q. I am calling your attention to that occasion which is on the 6th day of June, 1912.

A. Yes, sir; I must have been up there, I go up there every day when I go up there, always go up and go probably around in the coal-yard and then I go on the coal-conveyor and down on the wharf.

Q. When there are no coal ships there?

A. That don't make any difference.

Q. You walk up whether there are any coal ships or not?

(Testimony of N. E. Gedge.)

A. Yes, that would make no difference.

Q. You remember Akina particularly up on the coal-conveyor on the morning of the 6th day of June, that very day that that drum was installed, the new drum?

A. No, I am telling you that I go up there nearly every day, I go up there; I would not swear that I went up on top of that conveyor that particular morning; think I did; I generally always do.

Q. Did you observe the condition of the cable at that time?

A. Oh, just as I was going in I probably saw the cable, but I didn't notice it particularly.

Q. There was nothing wrong with the cable, was there? A. No, sir.

Q. You didn't observe any wires sticking out, did you? A. No, I did not.

Q. The cable, as far as you were concerned—as far as your observation was concerned, Mr. Gedge, the cable was apparently in good shape, in good condition? A. Yes, sir.

Q. Now, when was the next time that you came down to the coal-conveyor [448—370] after the drum was installed?

A. I presume I was down there every day.

Q. Now, you say Akina never had anything to say to you with regard to the installing of the cable?

A. No, sir; he did not.

Q. There was not one word spoken there about the cable with the exception of the tangling on the drum?

A. That was all.

(Testimony of N. E. Gedge.)

Q. And nothing was said by Akina that called your attention to the condition of the cable?

A. No, sir.

Q. And nothing was said by Ward which called attention to the condition of the cable?

A. No, sir; there was not.

Q. Not a word?      A. No, sir; not a word.

Q. Every day, then, up to the 6th or 8th day of July, from the 6th day of June, you were down there on the conveyor?

A. I was presumably every day. It is my usual custom to go down in the coal-yard, on the Marine Railway and on the coal-conveyor, and back up onto the wharf.

Q. And you say all that time, Mr. Gedge, you did not observe anything wrong with the cable, the cable was running just the same as it always had, and there were no wires sticking out or anything?

A. No, sir; I never noticed anything wrong with that cable.

Q. Do you know how the cable came off the pulleys on the Saturday immediately prior to the accident?

A. No, I do not.

Q. Where were you on the morning of Saturday, the 6th day of July, 1912, with reference to the coal-conveyor?      A. I was down there.

Q. Were you there all morning, Mr. Gedge?

A. No, I was not.

Q. When did you leave in that morning?

A. Oh, I would probably hang around there for a half an hour, and if I was going there first, I would

(Testimony of N. E. Gedge.)

go around the marine railway and the coal-yard; about eight o'clock I would go up to see what they had done the first hour and go up to the office. Saturday is a busy office day with me. [449—371]

Q. And you returned about noon-time in order to check the men as they came off the ship?

A. I guess I did.

Q. Now, then, on the Saturday immediately prior to the accident, your best recollection is that you were not there during the entire morning, it being a busy day?

A. Yes, I was not there; I never stay the entire morning.

Q. And you did come down there around noon-time on that day?

A. Yes, I would be there at one o'clock, anyhow.

Mr. STANLEY.—You say you would be there at one o'clock?

A. At one o'clock, I checked the men aboard.

Mr. DOUTHITT.—And nothing was ever said to you by Ward on the Saturday immediately prior to the accident regarding the condition of the cable?

A. No, sir; there was not.

Q. And he never told you that the cable had been off on that day? A. No, he did not.

Q. He did not? A. No, sir.

Q. Who hires the men who are employed in the hold of the ship? A. I usually hire them.

Q. Who hired the men who are employed on top of the coal-conveyor?



(Testimony of N. E. Gedge.)

A. The luna down there in charge.

Q. Who was the luna? A. Akina.

Q. Who discharged the men who were employed on top of the coal-conveyor? A. He did.

Q. Akina did? A. Yes.

Q. I did not mean the regular men, I meant the men who were employed when coal ships came in, who employed those men?

A. He employed them. There was a regular coal-gang that used to go down when the steamer would come in and he would put them on, and when the steamer put off they would go.

Q. And you employed the men on the ship?

A. I picked them out on the wharf there, and took a record of them.

Q. You employed them on the wharf and took a record of [450—372] them? A. Yes, sir.

Q. And you had the power of discharge, didn't you? A. Yes, sir; if it was necessary.

Q. And you also had the power of discharging the men that were employed on top of the coal-conveyor, too, did you not?

A. No, I never did discharge them.

Q. Who did?

A. Akina was the man in charge there.

Q. He was the luna on top of that coal-conveyor?

A. Yes, he was the luna on top of that coal-conveyor.

Q. Now, Mr. Gedge, do you mean to say that if you were dissatisfied with a man's work on top of the

(Testimony of N. E. Gedge.)

coal-conveyor that you would have to go to Akina for orders?

A. No, I would not. If the coal ship was in, Mr. Ward was in full charge, and he would say who would be discharged and who would not, and in the ordinary business of the company Akina would have the handling of his own men; he was the man who knew whether the men were giving satisfaction on that conveyor or not.

Q. Well, didn't you know, too?

A. He might have told me that he had fired a man.

Q. Well, were you not there for the purpose of seeing that the agreements of the company were kept up?

A. I was watching to see that things were kept up.

Q. Indeed you were? A. Yes.

Q. And you were down there for the purpose of seeing that the agreements made by the Inter-Island Steam Navigation Company with these foreign ships was kept up and carried out?

A. Well, we relied on Mr. Ward for keeping that work going.

Q. How is that?

A. We relied entirely on Mr. Ward to keep that work going there.

Q. Didn't you testify, on direct examination, that it would be your duty to be down there and see that the agreement with the company with regard to the discharging of the coal would be kept up in as much as there would otherwise be a demurrage of three or [451—373] four hundred dollars a day?

(Testimony of N. E. Gedge.)

A. I didn't say it was my duty; I said I kept a record of the progress there to see that these things were going on smoothly.

Q. You were generally overseeing it, were you not?

A. No, I was not.

Q. You were not a tally clerk, were you?

A. No, I was not a tally clerk.

Q. You were an officer of that company?

A. Yes, but I never interfered with those men any more than I did in the machine-shop or on the steamers.

Q. But, if an agreement that your company made with the foreign ships was not being kept up, what would you have done?

A. I would have immediately reported it to Mr. Kennedy, the general manager.

Q. Do you mean to say—do you mean to say, Mr. Gedge, that in the event that the agreement of the company in regard to the discharge of coal was not kept up at that coal-conveyor, that you would go to the general manager of the company and report it to him? A. Certainly, I would.

Q. What particular work was required at the time of the overhauling of the coal-conveyor before coal ships came in?

A. To go down and just go over the conveyor and see that everything was in order.

Q. Now, you mean that Ward, if there were any repairs to be made—you mean to the machinery for example, don't you?

A. Why, it is the engine, in the tower or engine on

(Testimony of N. E. Gedge.)

the wharf or anything of that description.

Q. If the engine happened to get out of order or machinery in general happened to get out of order, Ward went down there to fix it? A. Yes, sir.

Q. How long did it take to overhaul this conveyer?

A. It didn't take them long, there was not much to overhaul, [452—374] he would just do down and glance over it and look to see that the thing was in good shape.

Q. There was nothing to glance over so far as this cable was concerned, was there?

A. The whole thing we looked to Mr. Ward for the whole business down there.

Q. Why, you had a luna on the top here, didn't you?

A. Yes, we had a Hawaiian luna, a half-Chinese luna.

Q. How is that?

A. We had a half-Chinese luna.

Q. Who is that, Akina? A. Akina.

Q. He was a pretty responsible man, was he not?

A. Pretty good boy.

Q. But he had been in your employ, in the employ of the company for a long time?

A. Yes, from my knowledge I don't think Mr. Akina is a machinist, he may be, but if he is I don't know anything about it.

Q. He is a boiler-maker, you know that, don't you? A. No, I don't.

Q. He had been in the employ of the company for a long time? A. Yes, for some time.

(Testimony of N. E. Gedge.)

Q. And his work had always been satisfactory to the company?     A. As far as I know.

Q. If it had not been you would know it, wouldn't you, Mr. Gedge?

A. Yes, I only knew him when he was first up here running a tower, he was not always a luna down in that conveyor.

Q. I know he was not. He was a luna there for the last three years of his employment was he not?

A. I would not venture to say whether it was the last three years or not.

Q. He was employed there how long?

A. I don't know when he lost his position, when he gave up his position.

Q. Do you mean to say that you fired him?

A. No.

Q. He left voluntarily, didn't he?

A. He did. [453—375]

Q. And the company after he left, the company made efforts to get him back, didn't it?

Objected to. Question withdrawn.

Q. How long had he been employed on the coal-conveyor of the Inter-Island Steam Navigation Company?

Mr. STANLEY.—Do you mean prior to the accident?

Mr. DOUTHITT.—Prior to the accident.

A. About three years that I know of.

Q. About five years, was it not?

A. About three years that I know of.

Q. About three years that you know of?



(Testimony of N. E. Gedge.)

A. Yes.

Q. And how long after the accident was he employed?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained.

Q. During the three years that he was employed prior to this accident how long had he been a luna?

A. I could not tell you the exact date, there was another man, a luna there for awhile, and then Akina.

Q. He was promoted, Akina, was he not?

A. He was.

Q. Who promoted him?

A. He was promoted on the suggestion of Mr. Ward.

Q. On the suggestion of Mr. Ward? A. Yes.

Q. You didn't promote him, did you?

A. No, I did not.

Q. Who promoted him?

A. Mr. Kennedy would say whether he could be promoted or not.

Q. He would say whether he would be promoted or not?

A. Yes, sir, Mr. Kennedy was the man to say.

Q. And who suggested it to Mr. Kennedy?

A. I probably suggested it to Mr. Kennedy.

Q. You suggested it? A. Yes.

Q. And as I understand you never gave any orders down there at all in regard to the conduct of this work, never gave any orders at all?

(Testimony of N. E. Gedge.)

A. Simply to tell them what was coming [454—376] down there, to get bunker coal or what was going to take place.

Q. And if Akina made the statement that you conducted the work, or Merseberg or Akina had made the statement that you were in conduct, general conduct, of work down there, they are mistaken about that? A. They are.

Q. Yes? A. Yes.

Q. And did you ever give any orders to shift the towers? A. No, sir.

Q. Never did?

A. No, sir, that was not my work.

Q. And did you ever give any orders to hurry up the coal, was not coming up fast enough? A. No.

Q. Suppose the coal is not coming up fast enough out of the hold, what would you have done?

A. I would have gone and seen Mr. Ward and seen the reason why, probably I could have seen the reason why that there was not coal to be had.

Q. If you saw the coal was not coming up fast enough out of the hold what would you have done?

A. Me?

Q. Yes?

A. Well, if I happened to be down there and noticed it I might have gone aboard the steamer and taken a look to see the reason why.

Q. You were down there to see that the work was conducted as expeditiously as possible?

A. As possible.

Q. And if the work was not being conducted ex-

(Testimony of N. E. Gedge.)

peditionously you would see that it was?

A. Mr. Ward is the man to see to that and I would have gone and spoken to Mr. Ward if I thought things didn't look right.

Q. What would you tell Ward?

A. I would have gone and asked him the reason why.

Q. Were you under Ward or over Ward?

A. Me?

Q. Yes?

A. I was not directly over Ward.

Q. I mean directly or indirectly?

A. No, I was not.

Q. Do you mean to tell me, Mr. Gedge, that you were not over [455—377] Ward?

A. Well, I hold a higher position in the company, but Mr. Ward is sent down there by Mr. Muirhead and I would go down there also.

Q. He is sent down by Mr. Muirhead under directions from Mr. Kennedy, general manager of that company?

A. Mr. Kennedy would also tell me as I told you before to tell Mr. Ward to go down there to the coal steamer and to handle the coal plant.

Q. To handle the coal plant?

A. Yes, be in charge of the coal plant, the entire operation.

Q. Ward would do that? A. Yes.

Q. You were not over Ward or under him?

A. I was not under him certainly, I was an officer of the company.

(Testimony of N. E. Gedge.)

Q. But as far as being an officer of the company you were over him, he was simply a machinist in the employ of the machine-ship?     A. Yes, sir.

Q. And while coal-boats were coming in he was employed there on the boats?

A. Yes, sir, but he knew more about that than I did, that was his business. While he had been there right straight along from the time that the conveyor was erected. I could not tell you how to run it.

Q. You saw the working operations?

A. Yes, sir.

Q. Went down there every day?

A. Yes, but I am not a mechanic.

Q. It does not take a mechanic to know when coal is coming up rapidly or not?     A. No.

Q. And it does not take a mechanic to know whether the coal is being discharged as expeditiously as possible as being shown by the tally-sheet at the scale-house?     A. How is that?

Q. It does not take a mechanic to know whether the coal is being discharged expeditiously or not by means of the tally-sheet, he has nothing to do with that, has he?     A. Who?

Q. Mr. Ward.

A. Mr. Ward was around the scale-house [456—378] he saw and watched things himself, too.

Q. It does not require a mechanic to get up there and find out whether the coal is being discharged fast or not, does it?     A. No, it does not.

Q. As a matter of fact, Mr. Gedge, Ward was employed while coal ships were in generally in the hold

(Testimony of N. E. Gedge.)

of the ship or on the ship, was he not?

A. No, he was not.

Q. What was he down there for?

A. In charge of the whole operations. We kept two lunas in each hold, two lunas to look out for the trimming of the coal.

Q. Akina was on top, did this make any difference?

A. Mr. Ward was there, the whole thing was under him, he was over everybody.

Q. Does it require a mechanic to boss a gang of men?

A. No, it does not, but he had to go aboard to see that these grips did not injure the vessel. The grips readily injure a floor or injure the hatch.

Q. Does it require a mechanic to find out whether the grips injured the floor of the vessel, wouldn't you know if you were there?

A. If I went to see it.

Q. Certainly anybody with his eyesight could see it, couldn't he? A. That is right.

Q. That is not the reason why he was employed but by reason of the fact that he would notice that the grips did not injure the floor of the vessel or skin of the vessel?

A. He would go up inside and see that these lunas were keeping these men at work. There are lunas there for that purpose and he had supervision of the whole thing.

Q. There were eight men under the direct orders of Akina, were there not, on top?



(Testimony of N. E. Gedge.)

A. Akina and Mr. Ward, if Mr. Ward would be up there, Mr. Ward would give orders independent of Akina. [457—379]

Q. If Ward was not there Akina would give his orders to his men, wouldn't he?

A. He would be supposed to if there were three of the men in a tower probably Akina would be up in a tower running an engine.

Q. He was employed running an engine, too?

A. One of the tower engines.

Q. Tower engines? A. Yes, sir.

Q. He was employed running engines in the towers? A. Yes.

Q. And was he employed, did you ever see him in the engine-room, Akina?

A. Down at the engine-room?

Q. Yes, Akina.

A. Yes, I seen them all down at the engine-room and I have seen them go up on top there.

Q. During the time when the coal boats were in, Mr. Gedge, when Mr. Ward was at the machine-shops of the Inter-Island Company in the event of any hasty repairs to be made down here they were made by Akina, were they not?

A. Yes, any rough work was done by Akina, but when anything of any importance was done in cables and engines was all done under the supervision of Mr. Ward.

Q. And Akina was there assisting him?

A. Akina and his gang would assist him also.

Q. In the meantime when Ward was at the ma-

(Testimony of N. E. Gedge.)

chine-shops of the company, in the event of any break, weights or anything of that kind getting out of order, Akina would fix it, wouldn't he?

A. He would probably have Mr. Ward do it.

Q. Well, did he do it?

A. Akina, I have never seen Akina do it.

Q. You have never seen Akina do it?

A. No, I have not.

Q. You have never seen him do a bit of mechanical work on that coal-conveyor?

A. I have seen him do odd jobs, but anything of any importance they send for Mr. Ward.

Q. Have you seen him mending cars down there, putting in strips of iron in cars?

A. Yes, but any native laborer can [458—380] put the strips of iron on the cars.

Q. Inside, the conical shaped side of the cars, you have seen him mending the cars?

A. I have seen men at it there.

Q. Doing it under Akina's supervision?

A. I have.

Q. Akina was bossing the job? A. Yes.

Q. And he was working himself?

A. Yes, that is only nailing on sheet iron.

Q. And Ward was not sent for to do that, was he?

A. No, he was not.

Q. Then, any ordinary work I am talking about for repairs or mechanical work that was required about the coal plant or conveyor Akina did it while Ward was in the machine-shop, didn't he?

A. Nothing of any importance. Putting new

(Testimony of N. E. Gedge.)

planks on the wharves and repairing cars and cleaning up the place, anything like that, putting boards on the roofs of the houses that is under the conveyor there in the coal-yard, little things like that Akina attended to that.

Q. Anything that happened to the towers that required mending, did Akina do that?

A. No, it would be done under the supervision of Mr. Ward.

Q. Done under the supervision of Mr. Ward?

A. Yes.

Q. By Akina?

A. By Mr. Ward, or he would work, himself, there and Akina help him. I repeatedly seen Mr. Ward doing work there, if I am not mistaken I saw Mr. Ward put those engines together down there.

Q. But it was the engines, anything relating to the mechanical operation of the coal-conveyor?

A. Yes.

Q. The engines?

A. Yes, the cars or anything else that had to be changed or fixed, it would be done under Mr. Ward's orders. No change would be made there unless Mr. Ward superintended it. [459—381]

Q. And wouldn't he report that to the company, that it was necessary to have that work done?

A. If there is anything like that to be done and I happened to be down there he would tell me and if not he would tell Mr. Muirhead. Muirhead is a man who passes there two or three times a day going to the Honolulu Iron Works. He would call Mr. Muir-

(Testimony of N. E. Gedge.)

head's attention to it and Mr. Muirhead would send Mr. Ward down.

Q. Who would call Muirhead's attention to that?

A. If Akina saw Mr. Muirhead and I didn't see him, he would tell Mr. Muirhead that such and such a thing is gone and he would send him.

Q. Ward was sent down there if there was anything like that to be done down there?

A. He would, *either* he was down there to do the work.

Q. Ward had no business to leave that machine-shop of the Inter-Island Steam Navigation Company and go down on that conveyor without permission, did he? A. Muirhead would send him down.

Q. But he only went down there under orders?

A. He only went down there under orders.

Q. And never could leave that machine-shop unless he could go down there under orders?

A. Unless he went down under orders or reported to Mr. Muirhead that he heard that there was something wrong down there and Muirhead would say go ahead.

Q. That would be in response to some statements that were made by those who were in charge of the coal-conveyor at the time that there was something wrong? A. Yes, it would have to.

Q. And sometimes you would report it to Mr. Muirhead?

A. Yes, sir, sometimes I would report it.

Q. Sometimes Mr. Akina would report it to you?

Mr. STANLEY.—Let the witness finish.

(Testimony of N. E. Gedge.)

Mr. DOUTHITT.—Had you finished?

A. Yes, sir. [460—382]

Q. Then, Mr. Gedge, as I understand your testimony, it is that in the event that anything happened down there on that coal-conveyor in regard to the machinery that that was reported first to the head office of the company, was it?

A. Well, it might be reported to me when I am down.

Q. But if you were not there?

A. If I was not there they would probably report it to Mr. Muirhead, Mr. Muirhead was around there going to the Honolulu Iron Works, his business calls him down there to the Honolulu Iron Works all the time and he stops in there.

Q. Was it not as a matter of fact reported to you?

A. Not always, no, sir.

Q. But at times?

A. At times, anything like this drum, when Akina told me about that drum.

Q. Aside from the drum, Mr. Gedge, have you ever received complaints from the coal-conveyor directly when you were in the office and you reported it directly to Mr. Muirhead?     A. No, I have not.

Q. Never have?

A. No, I would hear about things when I was down there and I would tell Mr. Muirhead that there has been spare things put in by Mr. Ward and I would know nothing about it until I would be down there and see him doing it.

Q. Then he was only sent down there by Mr.



(Testimony of N. E. Gedge.)

Muirhead, he was the only man who could send him down?

A. Mr. Muirhead was the man to send him down.

Q. Did you ever have anything to say to the men who were under the chute there, in charge of the loading of the cars? A. In what way?

Q. Bossing the men? A. No.

Q. Giving them orders? A. No, sir.

Q. You never did that? A. No, sir.

Q. You did not as a matter of fact. If the thing was not [461—383] going according to the way you thought it ought to you would go up and report it to Mr. Kennedy?

A. I don't know what you have reference to. If there was anything coming, if a steamer was being delayed or any chance for demurrage certainly I would report it to Mr. Kennedy. Any simple delay on the conveyor as putting in a new chain, anything like that, it was not necessary to report to anybody.

Q. Loading the cars?

A. No, the men loaded the cars there under the supervision of Mr. Ward and Mr. Akina.

Q. Don't you know that under the supervision of Mr. Ward, Mr. Akina was there all the time?

A. Akina might have been there under Mr. Ward, with Akina it was not necessary for him to be there all the time.

Q. I will ask you what was the employment of Ward, was he a sort of stevedore down there or mechanic?

A. Mr. Ward was superintendent. I don't know

(Testimony of N. E. Gedge.)

as you'd call it superintendent but Mr. Ward went down there in full charge of the operations of that conveyor and nobody interfered with him when he was in charge down there.

Q. And you never gave any orders to Ward at all?

A. No, I did not.

Q. Never gave any orders to the men?

A. Not on the conveyor.

Q. Or any other order?

A. When Mr. Muirhead may not have been in the machine-shop I may have said to George I need you down on the conveyor and then told Mr. Muirhead about it and then Mr. Muirhead would send him down. But I never gave him any orders on the conveyor. He was a mechanic and he understood the running of it. I am no expert although I have seen it run from time to time. I could not dictate the running of that proposition. He is an able mechanic that put it together and operated it and superintended the operation together. [462—384]

Q. Put it together, put the steel work there and mechanical work there?

A. Put the steel, put all the steel work together direct, the pulleys on the grooves, the rails, everything of that nature in connection with that, the engines and everything else put together?

Q. What is the distance, Mr. Gedge, between the outside rail on the Ewa track of the coal-conveyor and the foot path that runs along immediately outside of the Ewa side of that coal-conveyor?

A. This obstruction in the way outside of this tie

(Testimony of N. E. Gedge.)

to the platform there is the steam-box, it is about three feet, six inches to the steam-box, the steam-box is about twelve inches and there is about twelve inches to step down onto here.

Q. Is it not about six inches?

A. About five feet six.

Q. Five or six feet?      A. Five or six feet, yes.

Q. Is it not more?      A. No, it is not.

Q. You are sure of that?

A. Yes, sir, I am sure of it.

Q. Between five and six?

A. From the outside of it from here to here.

Q. Now, how low down is the steam-box?

A. The steam-box, there is a ten by ten going across here and the steam-box sets up, I think, a little higher than the track. I think the top of the steam-box has a little higher elevation than the track.

Q. Then a person would have to get up on the steam-box which is a distance of how many feet, how far from the rails or ties?

A. You can step right down onto here and step down onto the steam-box, you can step right down here over the whole thing and step onto the box here. There is no difficulty in getting out to here, anybody can get out here.

Q. There is a twenty-five foot drop right below there?

A. Yes, there is and there is a ten by ten timber that goes across and [463—385] supports this whole thing all the way along, spaced every ten feet

(Testimony of N. E. Gedge.)

there is ten by ten timbers.

Q. This coal-conveyor was erected according to blue-prints and plans and specifications?

A. Yes, sir, I believe it was.

Q. You don't mean to convey to this jury that George Ward laid the whole work out of his head?

A. Put it together, he directed it.

Q. And John Ouderkirk did the carpenter work, the structural work of the coal-conveyor?

A. He did.

Q. Not personally?

A. No, under his direction.

Q. Ward simply directed the steel construction of the coal-conveyor pursuant to the blue-prints?

A. Yes, sir.

Q. According to the blue-prints?      A. Yes, sir.

Q. This cable as it runs over the pulleys in response to one of the questions of one of the jurors, I think it was Mr. Medeiros who asked that question—these pulleys, the dollies we will call them, are about two and a half inches above the ties, are they not?

A. I would not be positive of that; I know that there is a portion that sets down into the ties, how much lower than the top of it this shaft sets I could not tell you unless I measured it. I never had occasion to do it, but I know that that is lower than the woodwork.

Q. About two and or two and a half inches?

A. It may be two or two and a half inches; I would not say.

A. JUROR.—Mr. Gedge, do you know how far

(Testimony of N. E. Gedge.)

apart they are? A. I would not say how far apart.

Q. About how far, Mr. Gedge? The blue-prints should show.

A. I would not undertake to say; it may be thirty feet or forty feet; I would not undertake to say.

Q. About fifty feet, is it not?

A. No, not as much as fifty feet.

Mr. DOUTHITT.—Your recollection of it then, Mr. Gedge, is that [464—386] it is how many feet between pulleys?

A. I should say it is somewhere around thirty feet. I could not tell you, Mr. Douthitt, I did not measure it.

A JUROR.—In the daily report received from Akina of the eight men, of his labor, during the time he reported a drum being placed in?

A. That is so many men working on the drum?

Q. So many men working on the drum?

A. Yes.

Q. But he did not report the cable being off?

A. No, sir, he did not.

Mr. DOUTHITT.—Now, Mr. Gedge, you know from your own personal observation down there, do not, that when the engine is stopped that there is naturally a certain amount of sag between the dollies, we will call them; that is that the cable—

A. No, I do not; I have not noticed it.

Q. What is that? A. I have not noticed it.

Q. Do you mean to say, Mr. Gedge, that you have not noticed that when you stopped the engine that between the dollies and the center of these tracks



(Testimony of N. E. Gedge.)

that cable passes over, that when you stop the engine that there is not a certain amount of sag in the cable itself between the dollies?

A. I don't say that there is not any, I say that I have not noticed any.

Q. You have not noticed any?

A. No, I never noticed any sag there at all.

Q. You say that you have not noticed that there is a sag, a natural sag in the cable, as it goes around the pulleys when the engine is stopped?

A. No, I have not taken any particular notice as to that.

The COURT.—Around the pulleys or over the dollies?

(Last question read.)

Mr. DOUTHITT.—I mean the dollies; is there not a natural sag in the cable between the dollies in the center of the track or rollers over which the cable is passed when the engine is [465—387] stopped?

A. There may be a slight sag there, I don't remember particularly.

Q. Irrespective of the slack of whether you raised the weight or you didn't; is it not a fact?

A. No, I cannot say that it is a fact.

Q. Then you are not prepared to state that it is not a fact?

A. No, I cannot; I am not prepared to say that it is not a fact.

Q. You don't know?

A. No, the only thing is experimenting—

Q. What is that?

(Testimony of N. E. Gedge.)

A. I say I noticed it when we were experimenting down there before and after the last trial; we particularly went down there to watch it, but—

Q. But you had never—

A. But I had not particularly noticed the sag there.

Q. Your experiments then, Mr. Gedge, were conducted by lifting the weight?

A. Yes, stopping the engine.

Q. Lifting the weight?

A. Releasing the grips and raising the weight.

Q. But you did not make any experiments with the cable by allowing the cable to remain just as it was, did you?

A. Well, I—no, I did not make any experiments that way.

Q. And there were no experiments made in your presence, were there?

A. I saw these experiments with the raising of the box, the like of that.

Q. Yes, but I am asking you whether any experiments were made by you or in your presence or by any one while you were there where the weight was allowed to remain in its normal natural state?

A. No.

Q. Then you are not prepared to state, Mr. Gedge, as to whether the same condition would not occur if the weight were not raised; that is, the sag between the dollies? [466—388]

A. It could not be anything like what it was when the weight is raised. The weight when raised brings

(Testimony of N. E. Gedge.)

a sag that you can see very easily.

Q. How can you say that; you say no such experiments were made?

A. For the reason with the raising of the weight I just told you that we made—

Q. I understood you that you did not make experiments when the weight was not raised?

A. No, but I have seen the cable there. Only here just the other day the cable down there I noticed when the cars were stopped *to* cable did not even touch the top of these rollers or dollies as you call them on the track there, was tight enough to be a quarter of an inch or half an inch over the dollies on the lower end when the cable was not running.

Q. How did you stop the engine?

A. I did not stop it; the man on the conveyor stopped it.

Q. Was not that conducted—when were these experiments made?

A. The first experiments were made before and after the last trial.

Q. When were the last experiments made?

A. I have not seen any experiments made except here the other day and with a car going—with a cable coming off the track, off the dollies.

Q. Experiments to see that—

A. I was trying those experiments, something that I had seen occur down there,—that I had personally seen happen and I wanted to know how it occurred, whether it occurred just as I remembered it had occurred that time, that is the thing that I went down there about.

(Testimony of N. E. Gedge.)

Q. Then there were not experiments as I understand you made by any one in your presence since the last trial of this case? A. No.

Q. Those experiments were made over a year and a half ago then?

A. Before and after that last trial, as I told you [467—389] before.

Q. Before and after? A. Yes.

Q. About when?

A. I cannot tell you just off-hand.

Q. About how many months after?

A. Well, it was not very long.

Q. Was it a month?

A. I cannot remember the date. Maybe Judge Stanley can tell you because he was there. I cannot remember.

Q. You don't know how that engine was shut off, do you, whether the power was shut off?

A. Shut off from a little round wheel just outside the scale-house, within a few feet of the scale-house, there is a wheel there; a fellow turns that and the things shut off.

Q. Just show us how he did that; did he do that in your presence, Mr. Gedge?

A. I have seen it done there repeatedly,

Q. How did he do it?

A. Why, just simply stooped over and turned the wheel.

Q. Slowly?

A. No, he turned the wheel pretty fast.

Q. He did not go over and shut it off with a jerk,

(Testimony of N. E. Gedge.)

did he?     A. No.

Q. He did not?     A. No.

Q. He simply turned it off like that?

A. I simply know he went and turned it off, Mr. Douthitt; I don't know how fast he shut it off.

Q. You don't know whether there was any steam left in the engine or whether all the steam was shut off?

A. No, sir; because I am not a mechanic and how should I know anything like that, whether there should be steam.

Q. You are not prepared to state that at the time that that engine was shut off, at the time that you made your experiment, was the same manner in which it was shut off on the Saturday prior to this accident?

A. Shut off as it was always shut off [468—390] under similar conditions exactly.

Q. You never saw it shut off on Saturday?

A. I seen it along in off days.

Q. Did you see it shut off on Saturday prior to the accident?     A. No, I was not down there.

Q. You do not know whether there was any steam left or not or whether it was shut off slowly or quickly, violently?

A. I could not tell whether he shut it off violently.

Q. When? After the cable was off the pulleys?

A. No, I never saw it shut off violently. I cannot describe to you how fast the man turns that wheel.

Q. You saw him turn it?



(Testimony of N. E. Gedge.)

A. His back may be between you and the wheel; you cannot see through him. He would go over there from his work on the conveyer; I may be behind him. He is standing there in front of me; naturally it is the boy at the scale-house changing the ropes; he would be in the way; I couldn't possibly see the wheel; I could not tell, he might shut it off violently, he might not shut it off violently.

Q. You don't know that by the operation of shutting off steam suddenly and quickly that it has a tendency to throw the cable around?

A. No I do not know that.

Q. And do you know, Mr. Gedge, that by having steam remaining in the engine that you could also have the strain remaining on any cable there will be certain strain?

Objected to.

Objection sustained.

Q. The experiments with regard to the cars going around the track Mr. Gedge, how many cars were sent around? A. At one time two, one time three.

Q. Right close together?

A. Right close together.

Q. Did the cable—the cars get around all right?

A. No, the cable jumped out of the slot of the first car.

Q. How is that?

A. The cable jumped out of the slot of [469—  
391] the first car.

Q. How is that?

A. The chute, the long chute whatever it is that

(Testimony of N. E. Gedge.)

the cable lays on. The car was standing down there at the lower part that chute is all open and all the cars standing on the track and if a car comes along gripping the cable it forces the other cars on the curve, and that is the condition in which I saw it.

Q. And then were there two empty cars and two coal-loaded cars? A. Empty cars.

Q. Two empties in front? A. Yes, sir.

Q. One loaded behind?

A. No, empty behind, all empty cars.

Q. That was the experiment, you are sure about that?

A. That is the experiment I made down there.

The further hearing of this case was continued until Monday morning at 8:30 o'clock, June 8th, 1914.

[470—392]

385.

GEORGE E. WARD

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIMITED.

VOL. II. [471—392a]

No. 817. Received and filed in the Supreme Court, December 24, 1914, at 3:15 P. M. Robert Parker, Jr., Assistant Clerk.

CIRCUIT COURT

DEC. 24, 1914.

FIRST JUD. CIRCUIT. [472—392b]

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[474—392d]

*In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.*

JANUARY TERM, 1914.

GEORGE E. WARD,

Plaintiff,

vs.

INTER-ISLAND STEAM NAVIGATION COM-  
PANY,

Defendant.

(Testimony of N. E. Gedge.)

June 8th, 1914.

Cross-examination of N. E. GEDGE resumed.

Mr. DOUTHITT.—Then as I understand you, Mr. Gedge, that the only orders that you ever gave to Ward was when he was required there at the coal-conveyor that you sent up to Mr. Muirhead to tell him that you wanted Ward down there?

A. I would probably go over there and tell Mr. Muirhead that Ward was required.

Q. And if you didn't go over and tell him yourself you would send word to Mr. Muirhead to excuse Ward? A. I would see him at the office.

Q. How is that?

A. Mr. Muirhead drops into the office quite often, and I would see him there; most likely I would go to the shop and see Mr. Muirhead.

Q. You would see Mr. Muirhead? A. Yes, sir.

Q. And tell him that you wanted Ward down at the coal-conveyor or wherever you wanted him; that was the general method of [475—393] doing things?

A. That was the general—that was the instruction from Mr. Muirhead.

Q. And you followed out that instruction, Mr. Gedge? A. I followed out that instruction.

Q. I will ask you if this is your writing, Mr. Gedge? A. Yes, sir.

Q. That is your writing?

A. Yes, my handwriting, yes.

Mr. DOUTHITT.—I desire to offer this in evidence, if your honor please.



(Testimony of N. E. Gedge.)

Mr. STANLEY.—No objection.

The COURT.—It may be received in evidence and marked Plaintiff's Exhibit "F."

Mr. DOUTHITT.—"November 24th, '11. George: When you have the time I wish you would come aboard the 'Dix' to see how she is for discharging at our conveyor, will go with you. Gedge." Any other of those orders, Mr. Gedge?

A. Probably there are others. I don't consider that an order. If I cannot find Mr. Muirhead I would leave a note or send a boy over with a note there. If I didn't see Muirhead I would tell George in the shop myself if I didn't see Mr. Muirhead, that was a common thing, but I didn't issue a written order. I did not consider that a written order. I told him I wished him to come down and take a look at her. And there are times when Mr. Muirhead would be away on the other islands.

Q. And that was a common thing then for you to send notes to Ward?

A. No, not a common thing, occasionally, if I didn't happen to see Mr. Ward I would send a note over to Mr. Muirhead.

Q. You have sent over to Ward, have you not?

A. Yes, I sent notes to Mr. Muirhead.

Q. And you have sent others over to Ward, have you not? A. I possibly have a few.

Q. A good many of them, have you not?

A. I would not send [476—394] them over orders they are not orders, but I would send him notices of steamers leaving with cargoes of coal.

(Testimony of N. E. Gedge.)

Q. Write to Mr. Ward?

A. Write to Mr. Ward and Mr. Muirhead at the same time. Ward, whenever he would meet me he would ask me when is the next coal ship coming in, but I never gave him direct orders to do anything.

Q. That is a direct order, is it not?

A. No, I do not consider that a direct order.

Q. Now, Mr. Gedge, do you remember when the—do you remember the name of the vessel which was being discharged at the time that Ward was hurt?

A. I believe I do.

Q. What was the name? A. "Guernsey."

Q. The "Guernsey"? A. Yes, sir.

Q. She had made several trips here, had she not, prior to the time when Ward was hurt, this was her third trip, was it not?

A. She had been here before, I could not say just how often.

Q. Did you ever give Ward any orders with respect to the coal on board the "Guernsey"?

A. Not from her.

Q. You say that the agreement of the company was made with these coal ships to discharge them?

A. It is with the people we purchased the coal from,

Q. And your company guaranteed to discharge five hundred tons a day, didn't it? A. Yes, sir.

Q. Now, don't you remember upon the first trip of the "Guernsey" that you had an argument with the captain of the "Guernsey" with regard to discharging the coal? A. No, sir.

(Testimony of N. E. Gedge.)

Q. What?      A. No, sir.

Q. Now, let me refresh your recollection, Mr. Gedge, the company was receiving wharfage in addition to their agreement, were they not?

A. Yes, sir.

Q. For every day?

A. Yes, sir, that is part of the agreement. [477—395]

Q. Wait until the question is finished before you answer?      A. Yes, sir.

Q. The company agreed to discharge five hundred tons per day and also wharfage?      A. Wharfage—

Question objected to as unintelligible. Question withdrawn.

Q. The company was to receive wharfage from the ship or the ship owners of the foreign ships all the time that a vessel was lying at the Inter-Island wharf, was it not?      A. Yes, sir.

Q. Don't you remember having a conversation with the captain of the "Guernsey," when the captain asked—when you told the captain, rather, that if their wharfage was paid that the vessel would be discharged as quickly as possible, that is the full wharfage at five hundred tons a day?

Objected to as unintelligible.

Q. The full wharfage taking into consideration that five hundred tons a day was discharged pursuant to agreement; that the captain wanted only to pay for the actual days that the vessel was at the wharf and not wharfage when she was done, for example, the vessel weighed five thousand tons and five

(Testimony of N. E. Gedge.)

hundred tons a day discharging that would mean ten days wharfage?

A. It all depends on whether the captain had the handling of the vessel or whether it was done through the people who purchased the coal. It may be that the coal was sold here in Honolulu and her arrangement would be directly with the people who purchased the coal, the captain would have the say whether the ship would pay the wharfage or not in a case of that kind.

Q. I am asking you about the "Guernsey"?

A. I could not tell you that unless I go and look up back correspondence to see whether she was a time chartered vessel or coming here for the trip only.

Q. Didn't you tell the captain at that time during your discussion with him as to how long it would take to discharge the [478—396] "Guernsey" of her cargo of coal that if full wharfage was paid having regard to the tonnage of the ship and with regard to your agreement of five hundred tons per day that you would get it out as soon as possible.

Objected to as unintelligible.

Q. Do you understand the question?

A. I don't remember any such conversation.

Q. And do you remember that when the captain said that he would only pay for the actual wharfage while the vessel was at the wharf you told Ward at that time to go ahead and only take out five hundred tons a day? A. No, sir, I did not.

Q. You don't remember that?

A. No, sir, I do not.

(Testimony of N. E. Gedge.)

Q. Don't you remember that happened with regard to the Japanese vessels that were in that they were advised to pay the full wharfage, when Japanese vessels loaded with coal were being discharged that the same situation arose?

A. That arrangement would be made with the people from whom we purchased the coal.

Q. How is that?

A. That arrangement would be made with the people from whom we purchased the coal.

Q. Yes, but your arrangements with all of those companies were that you were only to take out five hundred tons a day?      A. No, sir.

Q. I asked you a few moments ago if that arrangement was not made with the "Guernsey"?

A. Not only to take out five hundred tons a day.

Mr. STANLEY.—The evidence is to take out a minimum of five hundred tons a day.

Mr. DOUTHITT.—You guaranteed, then, in your contract with these different companies to take out a minimum of five hundred tons a day?

A. We had to take out an average of five hundred tons a day.

Q. And, for example, a vessel containing five thousand tons [479—397] of coal you could take if you would wish according to your contract ten days to discharge that vessel of coal, could you not?

A. Yes, we could if we felt like doing it, the work would have gone along slowly.

Q. Now, that being the case, Mr. Gedge, didn't you tell Ward at the time when the captain refused to



(Testimony of N. E. Gedge.)

pay other than actual wharfage, that if the time when the vessel was actually at the wharf, when the captain refused to pay, that when he wanted to pay only the actual wharfage you told Ward to take out five hundred tons a day and you walked away?

A. I told Ward that?

Q. Yes.

A. No, sir, I don't remember that.

Q. And don't you remember, Mr. Gedge, that the captain afterwards came up to the office to find out about it and it was subsequently arranged that he was to pay full wharfage?

A. I don't think it could have happened with the "Guernsey," because I think she came here under time charter.

Q. Was it with any other vessels except the "Guernsey"? A. No, I don't think so.

Q. Calling your attention again to refresh your recollection with regard to the "Guernsey," did the captain of the "Guernsey" not come up to the office and afterwards upon agreement to pay the full wharfage the vessel was got out at a rate of over a thousand tons a day?

A. No, sir, I don't think she was discharged at the rate of a thousand tons a day.

Q. She was not discharged at the rate of a thousand tons a day?

A. No, sir, I don't think so, she had less than five thousand tons.

Mr. STANLEY.—You are referring to the first trip of the "Guernsey," are you, Mr. Douthitt?

(Testimony of N. E. Gedge.)

Mr. DOUTHITT.—Yes.

Q. Do you not know that on the morning of July 8th, 1912, the “Guernsey” took out—there was six hundred and eighty-two [480—398] tons and fourteen hundred and sixty pounds taken out of the “Guernsey” from seven o’clock in the morning up to twelve o’clock noon of the 8th day of July?

A. I don’t know that, I could tell by reference.

Q. Have you any reference?     A. I think I have.

Q. Bring them, produce it?

A. What date was that?

Q. July 8th.

A. Took out six hundred and eighty tons up to twelve o’clock noon.

Q. And fourteen hundred and sixty pounds?

A. Fourteen hundred and sixty pounds.

Q. And you took out in the afternoon of July 8th, 1912, how many tons?

A. Three hundred and sixty-five tons.

Q. And how many pounds?

A. Seventeen hundred and fifty pounds.

Q. How much did you take out on a Saturday immediately prior to that?

A. Five hundred and thirty-seven tons.

A. In the morning?     A. The whole day.

Q. How many pounds?

A. Nine hundred and twenty pounds.

Q. Five hundred and thirty-seven pounds on the Saturday?

A. We were short of an all there, that was Saturday only up to four o’clock.

(Testimony of N. E. Gedge.)

The COURT.—That was five hundred and thirty-seven tons?

A. Five hundred and thirty-seven tons.

Mr. DOUTHITT.—And five hundred and seventeen pounds, is that right?

A. Nine hundred and twenty pounds. Five hundred and thirty-seven tons and nine hundred and twenty pounds.

Q. Then on the morning of the 8th day of July—on the 8th day of July, 1912, you took out over a thousand tons? A. Yes, sir.

Q. Then you did take out over a thousand tons?

A. Not an average. We have taken out eighteen hundred tons in a day, that is not an average. [481—399]

Q. What day was that?

A. That we took out eighteen hundred tons?

A. Yes.

A. On June 28th we took out eighteen hundred tons.

Q. June 28th, 1912?

A. Yes, sir. We have often taken out fourteen hundred and thirteen hundred tons on a day.

Mr. COKE.—What was the total tonnage on that day, June 28th?

A. Eighteen hundred tons, twenty-one hundred and thirty pounds.

Q. Twenty-one hundred and thirty-two pounds?

A. Two thousand one hundred and thirty pounds.

Mr. STANLEY.—Is that figured in long tons, Mr. Gedge, or short tons? A. In long tons.

(Testimony of N. E. Gedge.)

Mr. DOUTHITT.—Twenty-four hundred pounds to the ton? A. Twenty-two hundred and forty.

Q. The “Guernsey” had a capacity of how many tons, how many tons did she have?

A. She had four thousand nine hundred and five tons, one hundred and thirty pounds.

Q. Then she was finished on what day?

A. On the ninth, six o'clock at night.

Q. Six o'clock at night? A. Yes, sir.

Q. What time did you start in on the Saturday?

A. On Saturday morning?

Q. Yes.

A. We started in at seven o'clock.

Q. Was that the first day that she was being discharged?

A. No, she started to discharge at seven o'clock on July 3d, and finished up the night of the 9th at six o'clock P. M.

Q. Started to discharge on July 3d, the “Guernsey”? A. Yes, sir.

Q. And how many tons were taken out on July 3d?

Objected to as incompetent, irrelevant and immaterial and having no bearing on the issues of the case. [482—400]

Mr. DOUTHITT.—How many days did it take to discharge the “Guernsey”?

Same objection.

Mr. DOUTHITT.—I want to show that they got through with this work as quickly as possible because of the agreement with the company that they were to receive wharfage per day ship discharging at the

(Testimony of N. E. Gedge.)

rate of five hundred tons per day.

Objection sustained.

Mr. DOUTHITT.—Mr. Gedge, where is the report or did you call it a report that was sent in by Akina on the 6th day of June, 1912, when the new drum was installed?

A. I think Judge Stanley has it.

Q. Will you kindly produce that please? That is the report, is it not? A. That is it.

Mr. DOUTHITT.—I notice Mr. Gedge, daily report, coal-conveyor? A. Yes, sir.

Q. Was Akina the foreman of the coal-conveyor or the luna employed on the coal-conveyor required to make daily reports to the company?

A. Only for a time they are just so that we would get our ideas what all these men were doing. We had eight men down there, day in and day out. Sometimes they would be coaling our own steamers bunkers, other times they would be times that the time was not going to tell and we just wanted to get kind of what was going on down there, that was not for a very great while that was kept up.

Q. You have other reports here, have you not?

A. Yes, sir, I gave Judge Stanley a bunch of them, everything we could pick up.

Q. Have you any other records showing when the cable immediately prior to the cable by which Ward was hurt was installed?

A. He never included that in his reports.

Q. Who didn't? A. Akina didn't.

Q. Or anybody else connected with the company?



(Testimony of N. E. Gedge.)

A. No, [483—401] there is nothing mentioned in his reports about the cable at all. There was one installed there, there is reports of the days there, but it does not show any record in connection with the cable.

Q. Any record in connection with the cable?

A. No, sir.

Q. Did you get a report from anybody in connection with the cable?

A. I saw the cables put in myself.

Q. Well, did you get a report from the men from Akina as to the men who were employed upon the installation of the cable prior to the one that George Ward was hurt on?

A. They would have the regular gangs working there.

Q. The regular gang?

A. The regular gang would be working there.

Q. And that gang was composed of how many men? A. About eight men.

Q. Employed down there at the coal-conveyor all the time? A. Yes, sir.

Q. Irrespective of whether coal ships were in or out. A. Yes, sir.

Q. And there was no report, as I understand you, from any one regarding the date of the installation of the cable prior to the time that Ward was hurt?

A. No, sir.

Q. And you have no data, data at the present time, as to when the cable by which Ward was hurt, when that was installed?

(Testimony of N. E. Gedge.)

Mr. STANLEY.—That is objected to, there is no evidence that Ward was hurt by the cable.

Mr. DOUTHITT.—I am referring to the cable which was in operation on the 8th day of July, 1912, when I speak about the cable by which Ward was hurt, we will simply eliminate that. I am simply referring to the cable which was in use and operation on the coal-conveyor on the 8th day of July, 1912, when was that cable installed?

A. About August in 1911. [484—402]

Q. August what?

A. I cannot tell you the date off-hand the reason, if you allow me to explain why I know about these cables is from the fact that the previous cable to that was put on—

Q. Just a minute. I will get your best recollection, then later on explain?

A. That cable was put in in August, 1911.

Q. That was while Ward was east?

A. While Ward was east.

Q. Now, give your explanation?

A. I was going to say that the cable previous to that Mr. Ward put on the drum in a different manner than any other cable that had been put in. We had always had trouble with the end of the splice because of one of the ends coming out which would sometimes only allow the cable to be in there only two or three months and the cable would come out because the tuck would be coming out continually and delay the work. Mr. Ward put on the drum in a different manner and that cable stayed in longer than any other cable.

(Testimony of N. E. Gedge.)

Q. Did Ward ever tell you—Did Ward ever mention to you prior to that time, on any occasion that the cable was put right on the drum?

A. No, sir, we knew there was something wrong and we could not find out and Mr. Ward, himself, was the man, I believe, that found out that it was on the drum wrong and he changed it himself.

Q. Is it not a matter of fact that he told you that cable was not right on the drum on a number of occasions, and you would not allow him to change it, and finally he tried it on and it ran all right?

A. No, sir.

Q. Is it not so?      A. No, sir.

Q. He is the man who was employed there?

A. Yes, sir, and he installed the cable himself.

Q. Installed it according to the plans and specifications, didn't he?

A. That I don't know. [485—403]

Q. How is that?

A. I don't know. He put the cable on. He is the man that always installed the cable, and I know at that time we all had reason to know that he changed it at that time because he watched that cable because he changed it and it stopped twisting on the rope. The rope used to twist before.

Q. Was there not a considerable amount of talk going on down there as to how that cable should be run and Ward suggested the manner in which it should be put on, and his suggestions were not received, and finally when he did put it on it ran?

A. No, sir, he always had a free hand.

(Testimony of N. E. Gedge.)

Q. Always had a free hand? A. Yes, sir.

Q. How long was that cable in use, the one immediately prior to the 8th day of July cable, how long had that been in use? A. About fifteen months.

Q. When was it installed?

A. Somewhere about May of 1910.

Q. Did you keep any data or any record of that?

A. Not any particular record of it.

Q. Was that the first cable that worked all right?

A. That was the first cable that was ever successful on that conveyor.

Q. The one that was successful on the conveyor?

A. Yes, sir, that the splices did not keep coming out, coming out.

Q. How many before that were unsuccessful?

A. There were several, I could not tell you how many.

Q. You then referred to that which was installed in May, 1910?

A. Installed somewhere about May, 1910.

Q. You are speaking simply from memory now?

A. Well, I am speaking from memory and knowing because I had occasion about that time to write to the Roebling people of San Francisco about the trouble we were having with the splices all the time and told [486—404] them that the cable would be apparently in perfect condition and the end of the splices would come out, the splice would not hold, the strand or something would come out, and they sent down a sample splice and the sample splice we have still after that cable was installed.

(Testimony of N. E. Gedge.)

Q. It was not up to Mr. Ward to replace that cable?

A. No, Mr. Ward was the man who directed, and Mr. Williamson was the man who did the work.

Q. Do you mean to tell me, Mr. Gedge, that Mr. Ward who was not a cable man, a splicer, directed the man who was a splicer for that purpose?

Mr. Ward would tell me that the cable had to be spliced, something like, and I would send for Mr. Williamson to go down and Williamson would splice it under Mr. Ward's direction.

Q. And Mr. Williamson was the splicer and rigger?     A. Yes, sir.

Q. On the day that Ward was hurt, and was in the employ of the company at that time, was he not?

A. He was.

Q. And was in the employ of the company for several years before that?

A. I don't know how long.

Q. You don't know how long, but at all events it was more than a year or two years?     A. Yes.

Q. And at any time that a new cable was to be installed it was Williamson who came down to do the splicing?     A. Not always.

Q. But another man who understood that business?

A. There are other men in town who did work for us.

Q. Besides Williamson?     A. Yes, sir.

Q. And they were splicers and riggers, they understood that work, didn't they, Mr. Gedge?



(Testimony of N. E. Gedge.)

A. Yes, sir.

Q. And that is what they were employed for, was it not, because [487—405] they did understand that work?

A. That is right, simply to do the splicing, that is the actual work of splicing.

Q. That is the main part; that is the whole thing, is it not?

Objected to; objection sustained.

Q. Now, you say that Ward was there, as I understand, superintending the installation of the cable?

A. He was there in charge of the coal-conveyor.

Q. What was he doing, what work had to be superintended by Ward when a cable was installed, if you had a splicer there, a professional splicer there, and a rigger? A. He had charge.

Objected to as already asked and answered.

Objection overruled. Exception.

A. Mr. Ward would have charge of the men and get everything in place for the splicer and assist in different ways.

Q. Get what in place for the splicer?

A. Have the cable brought up into place and whatever things were required and assist him in ordering the men here and there; there was always three or four men helping on the cable at one time.

Q. Mr. Ward did not pull the cable up there himself, did he?

A. No, but he ordered the men to do it; he was the superintendent in charge, or foreman in charge.

Q. To have everything taut, to have the cable

(Testimony of N. E. Gedge.)

brought up and put in place. All that Ward did was to order the men to take the cable that was wound around that drum or spool and have it put where it could be in position so that it could be attached to the old cable, is not that all?

A. Yes, and there would be more or less work winding the ends or strands and all that business, whatever work there was to be done there. Mr. Williamson put it together.

Q. Ward would have the cable rolled to the place and superintend the men taking it to the place where it was required so that [488—406] it could be attached to the old cable, didn't he? A. Yes, sir.

Q. And Williamson superintended the balance of it, didn't he?

A. Whenever the cable was to be spliced, Mr. Ward would be there.

Q. I know, Mr. Gedge, but after Ward had finished rolling the cable up to the position, who took charge there?

A. Well, Mr. Ward was in charge of the whole business; Mr. Williamson did the actual work of splicing under Mr. Ward, who would be in charge of all the assistants and everything else that was going on there.

Q. Do you mean to tell me that Ward gave any orders to Williamson as to how it was to be placed?

A. No.

Q. No, of course, not. Then all that Ward did was to boss the gang of men down there?

A. Yes, he had charge down there.

(Testimony of N. E. Gedge.)

Q. Akina was there, too, was he not?

A. Akina would probably be there and he might not be there. The chances are that he would be there.

Q. And you would be there, too, would you?

A. I would go there in the course of the day.

Q. When was that cable, that fifteen months cable taken out?

A. That was taken out shortly before the return of Mr. Ward from the east somewhere, in the month of August, I believe.

Q. The month of August?      A. Yes.

Q. Now, you talked about some experiments that were made after the last trial, after or before the last trial of this case?

A. Well, there were several experiments made down there. There were experiments made before the last trial, during the last trial, and after the last trial, and I forgot to say in answer to your question the other day that even on last Thursday there was an experiment made down there.

Q. Yes, but I am asking you about the experiments that were made before or were made in your presence?

A. Yes, that was before and during the last trial.  
[489—407]

Q. Before and during the last trial?

A. Yes, sir.

Q. That was when steam power was being used?

A. Yes, sir.

Q. Now, what experiments were there?

A. Well, the cars were in motion, the engine was

(Testimony of N. E. Gedge.)

stopped, the grips on the cars were released and the weight was hoisted.

Q. Yes, how many cars were on the track?

A. Oh, quite a number were on the track.

Q. Do you remember how many?

A. No, but there may have been one or two in the shed under repair. There was quite a number. We have twenty cars there; I don't remember the exact number that were attached on, on the main track; a few might not have been attached on.

Q. Were the cars loaded or empty?

A. Some loaded, some empty.

Q. How many loaded?

A. I cannot tell you at this time.

Q. How many empty?

A. I don't know; I know they had some loaded and some empty.

Q. And you don't know the position of those cars around the track?

A. Well, they were pretty well spread out, some around here, and some over around here. I cannot tell you from memory now. I only know that I was there when experiments were made.

Q. Now, you stopped the engine? A. Yes, sir.

Q. And the grips were removed from these cars, the position of which you are unable to tell us?

A. We sent men around and the grips were removed.

Q. The grips were removed from the cable?

A. Yes, sir.

Q. The position of the cars you are unable to tell

(Testimony of N. E. Gedge.)

us at the present time? A. Yes, sir.

Q. And unable also to tell us how many cars were loaded and how many unloaded? [490—408]

Objected to.

Q. What did you find?

A. We found that the cable would slack on the ties, would sag on the ties, between these rollers that it run along on between the ties.

Q. What is that?

A. Between the rollers or dollies, as you call them.

Q. That is all that you did observe?

A. Yes, sir; I think that is all that I observed at that particular time.

A JUROR.—The cable would sag after the weight was lifted?

A. After the weight was lifted it would sag, you would see it.

Mr. DOUTHITT.—Was the cable touching the rollers when you took it out of the grip, where they released the grips?

A. I think down below here the cable would—where the car was close up to the roller the cable did not touch, where the car was close up the grip held the cable about the rollers quite a distance off, I think it touched the top of the rollers—

Q. The cable touched the top of the rollers?

A. Along behind the cars.

Q. And you ascertained, as I understand you, from that experiment, Mr. Gedge, that when you lifted the weight you found the cable sagged between the



(Testimony of N. E. Gedge.)

rollers? A. Yes, sir.

Q. And what was the other experiment that you made?

A. Well, another time I just experimented with a car coming off the track at the curve,—not the car, but the cable coming off the track at the curve.

Q. Did you see the cable coming off the track from the pulleys?

A. On one occasion. On one occasion, a long time ago, I was standing down at this lower end when the cable came off.

Q. How long ago is that?

A. Oh, it must be—it is a long time ago, it is a long time ago.

Q. Is it more than three years ago?

A. About two or [491—409] three years ago.

Q. A year before Mr. Ward was hurt?

A. Before Mr. Ward was hurt.

Q. Long before?

A. Yes. I always understood there would be trouble with two or more cars or three cars coming on the curve at one time and pushing others around it. On that occasion I saw the cable come off; there were two or three cars, I don't know exactly how many came around this curve. There were some empty cars up here and the car came along gripping the cable and pushing the cars down there and the and the cable came off at that time, and I experimented afterwards to see if it would do it, and it did the same thing.

Q. That was a long time before the accident oc-

(Testimony of N. E. Gedge.)

curred? A. Yes, sir.

Q. And due to the number of cars?

A. Due to the number of cars coming on here at one time.

Q. Coming on there at one time? A. Yes, sir.

Q. On the eight pulley or where?

A. Yes, sir; shoving the cars on the eight pulleys. I was standing down here somewhere, and I saw the cars coming along here, and one car being shoved.

Q. And where was the cable off?

A. The cable flew out, as I told you on the Saturday, out of the slot, the first car, out of the chute or slot that the cable comes in where it is attached to the car. These cars were laying here empty, and the grip thrown open and a car came along pushing that car along here and this flew out of the slot and they stopped the engine and when they pushed the other cars back, it flew off the rest of them.

Q. Out of this full series of eight pulley?

A. Yes, sir.

Q. What slot did the cable come out of?

A. I mean out of the thing that holds it to the car, that grips it on the car, [492—410] the shoe.

Q. You have seen that shoe a good many times, have you not? A. Yes, sir, I have.

Q. And these cars are all built on the model—they are C. W. Hunt cars, are they not?

A. They are Hunt cars.

Q. And this track is what they call the track used by the C. W. Hunt Company of New York?

A. Yes, sir.

(Testimony of N. E. Gedge.)

Q. The shoe to which the cable is connected is built on the same radius, is it not, as the curve?

A. The shoe is perfectly straight, if I remember correctly. I would not be sure of it, but I think it is straight.

Q. It is perfectly straight, or don't you know, Mr. Gedge, that if that shoe was perfectly straight you could not go around a curve at all? Don't you know that from your own observation?

A. No, it may be.

Q. I will ask you, Mr. Gedge (showing witness book), is not that correct?

A. I cannot say without going and looking at the car; I just glanced at it; I made no examination of the different parts of the car. I could not describe anything more than the rough car as it is to you; I could not give you any description of any special parts, because I don't know.

Q. You have been down there for years?

A. Yes, but I don't know every little word; if I was a mechanic I would probably know all these things, but I don't know.

Q. And you could not say whether that is correct or not? A. No, I could not.

Q. You don't know whether the shoe is built on any radius, your idea is that it is straight?

A. I could not answer that, Mr. Douthitt, because I don't know; it is a little flaring or changed; what it is underneath, I could not say.

Q. Now, the flanges on those wheels you have observed those, have you not?

(Testimony of N. E. Gedge.)

A. What do you mean, these things? [493—411]

Q. No, no, the flanges on the wheels of the cars, the coal-cars? A. Not particularly.

Q. Well, refresh your recollection by looking at this Mr. Gedge (handing witness book)?

Mr. STANLEY.—We object.

Mr. DOUTHITT.—The twenty-three inch measurement was from the outside edges of the rails and the inside measurement was twenty inches in answer to the question from the juror.

A. Yes, that was it.

Mr. STANLEY.—The witness says he is not a mechanic or engineer and knows nothing about these things. We object to it as not proper cross-examination.

Mr. DOUTHITT.—That question was withdrawn.

Q. You have seen, have you not, Mr. Gedge, the construction of these rails, how the rails are constructed?

A. I saw the rails there; I don't know about the construction; I have had no reason—

Q. You have made measurements there of the distance between rails, have you not?

A. Yes, sir; I have some measurements there, but I know nothing about the construction of the rails.

Q. And you have made measurements as to the length of the ties? A. I have.

Q. And what did you measure in answer to a question, what was that twenty-inch measurement that you said you had made?

A. The inside of the rails, measured with a ruler,

(Testimony of N. E. Gedge.)

the inside of the rails, about twenty inches.

Q. On the curve or on the straight track?

A. Just here on the curve.

Q. Twenty inches inside on the curve?

A. Yes, sir.

Q. Did you observe that on the—what was the distance that you measured which was twenty-three inches?

A. The distance in measuring here inside of this rail was a little bit [494—412] thicker than this appears to be up here and here. I don't know the reason why it is for some twenty-three or twenty-three and a half inches. Then I measured twelve inches on each side of the track, is about twelve inches of ties.

Q. Then from the outside of the rail this is near the middle? A. I understand.

Q. From the outside of the rail to the outside of the other rail at the Ewa side was twenty-three inches?

A. From the outside of this rail here to the outside of this little extension, whatever it happens to be there, is twenty-three and a half inches.

Q. Well, from the outside of the rail to the outside of the rail?

A. About twenty-three and a half inches.

Q. You also noticed that on the Ewa side of the track, the outer track, that there was a flange that went down here, didn't it?

A. I don't know, sir, I just stood on this side here and put a ruler across the top and took the rough



(Testimony of N. E. Gedge.)

measurements, twenty-four inches, twenty-three and a half inches, and twenty inches to about twelve inches.

Q. You don't know whether there is a flange in the track? A. No, I do not.

Q. Where it runs along for example these rails and there is a little projection or flange in the track coming up like this and running off to here?

A. No. I knew there was a little something here that was thicker.

The COURT.—You would not know the difference between a lug and a flange on a thick plate, would you? A. No, I do not.

Mr. DOUTHITT.—That is not the situation of affairs, is it?

A. I don't know. I only know that there is a little thickness on this side that I happened to take notice of.

Q. But you don't think that is correct, showing you an illustrated drawing, for example, this might do at the extreme left of the page refers to the outer rail?

A. I was not [495—413] on the outside at all; I stood over here and just put the ruler across and measured.

Q. The cable came off the pulleys on that one occasion in *in* making that one experiment?

A. On one occasion.

Q. Was it tried several times?

A. I think it came off the first time I experimented with it.

Q. Did you try it again?

A. I am not positive.

(Testimony of N. E. Gedge.)

Q. Do you know the length of those cars from bumper to bumper?     A. No, sir.

Q. About ten feet, is it not?

A. That I could not tell you.

Q. Do you know the distance of these eight pulleys between pulley and pulley on the series of eight?

A. No, sir.

Q. Do you know, Mr. Gedge, that it would be impossible to get three of those cars on this—on the Ewa side of the track of the series of eight pulleys?

A. I never said there were three cars on those eight pulleys; I said there were three cars on that side of the track. Possibly one was on part of the eight pulleys, and the others going on. Three cars are quite a distance.

Q. I thought you said they were all together?

A. I said following each other around the curve, the last car pushing the one or two ahead of it around the curve.

Q. But all close together?

A. All close together.

Q. So that they would be spread out?

A. One up against the other.

Q. And it came off the series of eight pulleys?

A. It did not come off right at once, the series of eight pulleys, it came off afterwards when it started to push the cars ahead and then it flew off all of them when they were removing the cars on that particular point.

Q. They released the grips?

A. Only the last one was gripped, the others were

(Testimony of N. E. Gedge.)

not gripped. [496—414]

Q. The others were not gripped? A. No, sir.

Q. When you released the grip on the last car—

A. The cars pushed away and the thing came off.

Q. Did the grip and all come out?

A. What is that?

Q. Did the grip come out, too?

A. What do you mean?

Q. The grip, the shoe, come out from the pulleys?

Objected to as unintelligible.

Q. You say that the last car was attached to the grip—the cable was attached to the grip or the shoe in the last car? A. Yes, sir.

Q. And that was pushing it around the curve?

A. Yes, sir, pushing on it to the curve.

Q. Did the grip fly off the pulleys—fly over the pulleys?

A. I didn't see the grip fly over the pulleys, no, sir.

Q. How did the cable get out, then?

A. I could not tell you just exactly how the cable came out. I know the cable came off but how it came off I don't know. I only know there were cars going around that curve. I could not explain why they came off or why they didn't come off. I only know that they came off there once while I was there, that was all.

Mr. DOUTHITT.—I offer this report of Akina in evidence.

The COURT.—It may be received in evidence and marked Plaintiff's Exhibit "G."

(Testimony of N. E. Gedge.)

A JUROR.—I would like to ask Mr. Gedge one question. You say there was one car gripped pushing the other cars on that curve?

A. Yes.

Q. When they are pushing the cars was the cable in the shoe or is the cable thrown out altogether?

A. The cable is in the shoe.

Q. Of all three cars?

A. Of all three cars.

Q. But only gripped on the car pushing?

A. I think the car that grips the cable behind it raises the cable up, has a tendency to raise the cable up. I think that all grips the [497—415] front of the car gripping the cable. It is a kind of raising appearance. Here is the cable here and I think that might possibly be why the cable came off, I don't know.

Q. In closing the grip on one of the cars does the lower part of the grip raise?

A. No, the top has a wheel that you turn around and the thing goes down and holds it. I don't know what you call it but something goes down and holds it.

A JUROR.—The bottom of the grip has an ordinary vise arrangement? A. Yes.

Q. When it is not gripped it goes through, does not hold? A. It goes past there, does not hold.

Mr. DOUTHITT.—And those experiments, Mr. Gedge, were conducted on the same cable that was in use on the 8th day of July, 1912, the ones you just testified to? A. No, sir.

(Testimony of N. E. Gedge.)

Q. What? A. No, sir.

Q. Why didn't you say that it was during the last trial—that they were conducted on a different cable, were they? A. A different cable, yes.

Q. A different cable? A. Yes, sir.

Q. That was after Ward was here?

A. Yes, sir.

Q. Now, you have said here that the wages for tallying sugar were four dollars a day?

A. Yes, that is what I pay. I hire men occasionally.

Q. And that is what you pay? A. Yes, sir.

Q. A man who tallies sugar has to keep an account, has he not, and mark down each bag of sugar as it comes from the hold?

A. Well, there are slings of ten or fifteen bags, say fifteen at a time, or if a man is calling out he simply has to be put down and make one of them call tally; which is five bags or ten bags, whatever it is of.

Q. He has to write that down in a book?

A. To write down a mark for each tally. [498—416]

Q. And if there is not a man calling out the number of bags he has to look up and count it if it is going up out of the hold, if the grip was raised up in the air it stops there a few seconds or it may be go up on and you could not tell—

A. When we are discharging our own steamers they take the sling up off our steamers and it remains on deck for half a minute or a minute or two minutes and they pick it up again and take it on



(Testimony of N. E. Gedge.)

board and you count the sling whatever it is on the steamer, when we are discharging the American-Hawaiian steamers.

Q. And sometimes it is a minute, did you say?

A. Goes up in the air and remains there a little while and is taken on board. They bring up the sling on the deck of our steamers.

Q. Does it require a man to move around?

A. No, sir.

Q. You can sit in a chair?

A. You can sit in a chair and watch, the hold is right in front of you.

Q. But he has got to see what is going on there, watch what is going on there and see if there is ten or fifteen loads in the sling ready to tally?

A. Yes, sir.

Q. He has to see that and tally it and check it himself? A. Yes, sir.

Q. When did you have this conversation with Mr. Ward, while he was in the hospital?

A. Directly before he went home.

Q. Well, you say that he was in the hospital fifty-six days?

A. Well, I knew that from the bill I paid. I paid the hospital bill and on it was fifty-six days. I paid fifty-six days service in the hospital.

Q. Do you remember how long it was prior to the time he left the hospital?

A. Not very long, I cannot remember exactly. I was up there several times. It was when he was stopping outside.

(Testimony of N. E. Gedge.)

Q. What was the exact conversation that you had with him?

A. Oh, I could not tell you that I stayed there and talked [499—417] for quite a little while. I was there quite a little while with him, talking about different things.

Q. What was the exact conversation you had with him?

A. Well, we talked about many things, many things, but about just what particular things I do not remember. We talked about himself.

Q. Yes.

A. We talked about himself, how he felt and one thing and another and I asked him why in hell he ever took and tried to put the cable back the way he did.

Q. Yes, why in hell he ever tried to put the cable back in the way he did?     A. Yes, sir.

Q. And what did he say?

A. He said he thought he could save some time by doing it.

Q. Save some time by doing it?

A. Yes, sir, he was foolish but he thought he could save time by doing it.

Q. Said he was foolish?     A. Yes, he did.

Q. Didn't you have a conversation with Ward about three weeks after he left the hospital?

A. I cannot say it is just three weeks after he left the hospital, because I left about that time for California and Mr. Ward was down on the wharf when I went away. I saw him down there, but I have

(Testimony of N. E. Gedge.)

been at his house.

Q. You have been at his house?

A. Yes, I have been at his house, I went to his house, I remember.

Q. That was some time after he left the hospital?

A. Yes, after he left the hospital, I saw him at his home.

Q. Didn't you at that time, Mr. Gedge, at Ward's house here on Kinau street, some two or three weeks after Ward left the hospital complain to Ward and tell him that Kennedy, meaning Kennedy, the president of the Inter-Island Steam Navigation Company, had taken you away from the coal-conveyor and put Mr. Sheedy in your place?

A. No, sir, I did not.

Q. When was Sheedy installed?

A. Mr. Sheedy came to [500—418] work for our company—

Objected to as incompetent, irrelevant and immaterial.

Mr. DOUTHITT.—To show that he was in charge of that coal-conveyor. That is the purpose of it.

Objection overruled.

A. No, sir.

Mr. DOUTHITT.—Q. Well, isn't it a matter of fact, Mr. Gedge, that shortly after Ward was hurt, that you were relieved of your duty down there at the coal-conveyor and Mr. Sheedy was put in your place? A. No, sir.

Objected to as incompetent, irrelevant and imma-

(Testimony of N. E. Gedge.)

terial; motion to strike answer out.

Motion granted, objection sustained.

Mr. DOUTHITT.—Is it not a matter of fact, Mr. Gedge, that as soon as Ward was hurt an investigation was immediately made by you and the officers of the company, that the witnesses—witnesses were examined by the attorneys for the company, Mr. Warren and Mr. Hemenway, of the firm of Smith, Warren & Hemenway & Sutton and the statements of all the witnesses who were there were taken at that time, and the witnesses were examined by the attorneys for the company?

Objected to as not being proper. Objection sustained.

Mr. DOUTHITT.—I want to show that they did investigate thoroughly and completely the facts of this accident, had their witnesses down at their attorneys offices and examined them, took their statements of all the men who were employed there at the time this accident happened and then he said that he knew nothing about it or that Ward intended to bring any suit he said he did not know Ward intended to bring a suit until the complaint was actually filed and for that reason not knowing that Ward was going to bring any suit he then gave away the cable.

Objection sustained. [501—419]

(July instructed to disregard remarks of counsel as to what he expects to prove by the witness.)

Redirect examination of NORMAN E. GEDGE.

Mr. STANLEY.—Counsel have offered in evi-

(Testimony of N. E. Gedge.)

dence exhibit "F" here, supposed to be a note you wrote Mr. Ward in connection with the ship "Dix." Will you explain to the jury what that means?

Objected to. Question withdrawn.

Mr. STANLEY.—Will you explain the circumstances, Mr. Gedge, attending the sending of that note to Mr. Ward?

Objected to as immaterial. Objection overruled. Exception.

A. I will state that Captain Game, depot quartermaster, had purchased a great quantity of coal, and it was necessary to see if we could handle the army coal which was imported in the "Dix," she brings in the coal for army transports here and Mr. Ward went to see if she was a suitable vessel to go under our conveyor.

Q. What do you mean?

A. Whether she could work under the conveyor and we send a bid to the government, which we did send a bid to the government but our bid was too high. It was simply a case of using her at our conveyor, handling coal for the government at our conveyor.

Q. What was Mr. Ward going down there for?

A. To see if she was suitable to bring under our conveyor.

Q. To see if she was too long, too short, too high, or what?

A. Too long and the lay of the hatches and coal and so forth.

Q. That is whether with the towers you had you



(Testimony of N. E. Gedge.)

could work the vessel or not?

A. Whether we could do that business for [502—420] the government or not.

Q. And you had Mr. Gedge go over there to give you an expert opinion as to whether you could do that work—Mr. Ward I mean?

A. That was the idea.

Q. Now, Mr. Gedge, you have been interrogated as to ordering Ward to merely take out of the coal vessel some five hundred tons a day, what have you to say about that?

Mr. DOUTHITT.—I object to that, he has denied it.

Objection sustained.

Mr. STANLEY.—I understand that you have never given Mr. Ward any such directions.

Objection to as leading and not redirect examination. Objection sustained.

Q. Now, Mr. Gedge, you were asked as to when you started the discharge of the “Guernsey” and you said on July 3d and you were asked how much coal you got out on July 6th and you replied that you got out five hundred and thirty-seven tons and nine hundred and thirty pounds. Five hundred and thirty-seven tons and nine hundred and thirty pounds; can you state how it was on July 6th that only that amount of coal was taken out of the “Guernsey”?

A. On account of cleaning out the holds the work gets slower when you have to take the holds and trim to the draught.

(Testimony of N. E. Gedge.)

Q. Had that anything to do with the arrangement with consignees or consignors of the cargo that your minimum should be five hundred tons?

A. No, sir, that has nothing to do with it.

Q. Can you tell us, Mr. Gedge, you say you started discharging about on July 3d, will you tell us what the tonnage was that you took out of the boat on July 3d, 4th and 5th?

Mr. DOUTHITT.—That was objected to when I tried to get it out on the ground that it was absolutely immaterial and the objection was sustained. I object to it.

Objection sustained. Exception. [503—421]

Mr. STANLEY.—You testified on one occasion, Mr. Gedge, on cross-examination, that you made an experiment to see how cars, two or three of them being in succession going around a curve or on to the curve, would come off, who were present when you made that experiment?

Mr. DOUTHITT.—He has already testified to this on direct examination.

The COURT.—Is this the same time that you asked him with reference to before?

Mr. STANLEY.—No, your Honor.

Q. Who was present when this experiment you speak about sending the cars around the curve two or three of them, were made?

A. Mr. Sheedy and Mr. King.

Q. And how many times did you see cars leaving the track on this occasion of this experiment?

Mr. SUTTON.—The cable.

(Testimony of N. E. Gedge.)

Mr. STANLEY.—The cable leaving the track on this experiment?

Mr. DOUTHITT.—He testified to that, that his only recollection is that he saw it once.

Objection overruled.

Mr. STANLEY.—On this occasion that you testified to having been present and seeing the cars being sent around the curve, on that experiment you say that Mr. Sheedy was present and Mr. King?

A. Yes, sir.

Q. How many times during that experiment did you see the cable leave the pulleys?

A. Only once.

Mr. STANLEY.—There is one set of questions I omitted to ask Mr. Gedge on direct examination on a new subject.

Mr. DOUTHITT.—No objection.

Mr. STANLEY.—Mr. Gedge, what wages was Mr. Ward receiving at the time of this accident?

A. Six dollars a day.

Q. Was that six dollars a day, day in and day out? [504—422]

A. Six days a week, six days a week.

Q. Is that irrespective of where he was working?

A. No, that was when he was working at the coal ships, five dollars a day at the shop.

Q. Five dollars a day at the shop, when on the coal ships? A. Six dollars.

Q. And about, can you say on the average how many days in the month, twenty-six working days, Mr. Ward would be receiving six dollars a day?

(Testimony of N. E. Gedge.)

A. Six or seven days, whenever a coal ship was in, it depended.

Q. Taking the year, how many vessels come in during the past year Ward was working there?

A. Well, I guess there was about twelve vessels in 1912, I think about seven or eight in 1911.

Q. And how many days in the month would be occupied in discharging these coal vessels?

A. Well, from five to seven days, something like that.

Q. You say five dollars a day working at the shop and six dollars a day working at the coal ships, what do you mean by that?

A. Working at the coal-conveyor.

Recross-examination of NORMAN E. GEDGE.

Mr. DOUTHITT.—And overtime?

A. Yes, sir, he would get overtime.

Q. The five and six dollars a day was the ordinary eight hour day?     A. Nine hours.

Q. And overtime was paid at the rate of what?

A. I cannot say off-hand, I think Mr. Ward got about seventy-five cents [505—423] an hour, but I am not sure about that.

Q. Don't you know, Mr. Gedge, that it was for a period—he was engaged in an eight-hour day, for example, from seven o'clock in the morning until 12 and from one o'clock in the afternoon until four?

A. From 7 till 12 and one till 5 down at the conveyor.

Q. That is the hours?     A. Yes, sir.

Q. That is nine hours?

(Testimony of N. E. Gedge.)

A. That is nine hours.

Q. And then if he worked over the nine hours he was to receive how much?

A. That I could not tell you, but I think about seventy-five cents an hour, per hour, I am not sure.

Q. In other words the overtime, if he worked overtime he was given—if he worked an hour he was credited with an hour work, is not that correct, he would be given say for an hour and a half's work?

A. Yes, sir, if he worked there.

Q. If he worked after six?

A. If he worked after five o'clock he would get time and a half, whatever that was.

Q. Mr. Sheedy and Mr. King are employees of the Inter-Island Steam Navigation Company, are they, Mr. Gedge? A. Yes, sir, they are.

Q. What does Mr. Sheedy do?

A. He is the outside man, superintendent of the company.

Q. Superintendent of the company?

A. Yes, sir.

Q. Does he superintend the coal-conveyor, too?

A. Yes, sir, and general supervision over the whole thing. We have Mr. King down there.

Q. Mr. King? A. Yes, sir.

Q. Mr. King has taken Ward's place?

A. He is there in charge, yes, sir.

Q. He is in charge now? A. Yes, sir.

Q. He is in charge steadily, every day?

A. Yes, sir, he is down there. The plant has in-



(Testimony of N. E. Gedge.)

creased and he is down there [506—424] altogether.

Q. I believe you stated also on cross-examination that if the work was not progressing at the coal-conveyor in a manner—in a manner which —— to the contract of your company for discharging coal—

A. Yes.

Q. That you would have reported that matter to Mr. Kennedy?

A. I will tell you the reason why I reported to Mr. Kennedy.

Q. Supposing Mr. Kennedy was not there who would you report to?

A. Mr. McLean is vice president and acting manager of the company when Mr. Kennedy is not there.

Q. You would have reported to him?

A. I presume I would if there was anything turned up. He was acting manager, he assumes charge when Mr. Kennedy goes away.

Q. You would have left your work down there and gone all the way up to the office without saying a word to anybody?

A. My work was not down there, my regular work was not down there, I do go there occasionally.

Q. You were there every time a ship was in?

A. Yes, sir. I was down there, I don't stay there all day long, I had other work to do.

Q. You stayed there a considerable length of time, didn't you?

A. I would be there several times a day.

[**Testimony of John Scott Muirhead, for Defendant.**]

Direct examination of JOHN SCOTT MUIRHEAD, called for the defendant, sworn.

The CLERK.—What is your name?

A. John Scott Muirhead.

Mr. STANLEY.—Where do you reside?

A. Kalakaua Avenue, Honolulu. [507—425]

Q. How long have you resided in the territory?

A. In the islands, oh, about twenty-five years.

Q. How old are you, Mr. Muirhead?

A. I will be sixty-two, coming October.

Q. And where are you employed, Mr. Muirhead?

A. Inter-Island Steamship Company.

Q. What business, if any, were you raised to?

A. Locomotive and marine engineering.

Q. And where did you get your first training?

A. Merrifield in Leeds.

Q. In Scotland? A. Yes, two years there.

Q. In the office or shops? A. In the shops.

Q. And where else did you go?

A. Three years in A. J. Ingalls, Glasgow, that is where I finished my apprenticeship.

Q. And after you finished your apprenticeship where were you employed?

A. Oh, in various shops both on the Clyde and also in Liverpool.

Q. And after that you came out to the islands?

A. No, sir, I sailed in the P. & O. service for years.

Q. For what corporation?

A. Pacific and Oriental Navigation Company.

(Testimony of John Scott Muirhead.)

Q. The P. & O.?     A. Yes, sir.

Q. In what capacity?     A. Sea engineer.

Q. State whether or not you have any engineer's papers.

A. Yes, sir, I have got an English certificate of chief engineer, I have got a Japanese and I have got an American.

Q. As chief engineer?     A. Chief engineer.

Q. And after you left the P. & O., where did you go?

A. I was in the "Australia" running up and down here for the Spreckels steamboats.

Q. In what capacity?     A. Chief engineer.

Q. And after that?

A. I was up in the Kukaiau Mill. [508—426]

Q. As what?     A. As mill engineer.

Q. And then?     A. The Hakalau.

Q. And you were on various plantations, were you?

A. Hakalau, then I was in Spreckelsville.

Q. All as chief engineer?

A. And Wainaku, yes, and I was the assistant engineer in Spreckelsville.

Q. Wainaku is outside of Hilo?     A. Yes, sir.

Q. As chief engineer there?     A. Yes, sir.

Q. Then you finally got down to Honolulu?

A. Yes, sir.

Q. And where have you been employed here?

A. Oh, I have been employed at Waimanalo, down at Oahu Plantation, Honolulu Plantation, Ewa Plantation.

(Testimony of John Scott Muirhead.)

Q. In what capacity?

A. As engineer, erecting the machinery there.

Q. At Ewa?      A. At Ewa.

Q. And on Oahu?

A. I was the same, erecting machinery.

Q. That would be about shortly after annexation when these new mills were going up?

A. They were erecting the new mills then, sir?

Q. At Oahu?      A. Yes, sir.

Q. And then you finally got a job in town?

A. No, I was over at the fertilizer works after that.

Q. As engineer?      A. As engineer there.

Mr. DOUTHITT.— We do not deny the fact that he is in charge at the Inter-Island shops.

Mr. STANLEY.— Where were you employed after you came to Honolulu after leaving the plantation?

A. The fertilizer works.

Q. We have already had that. -A. You are working now at the Inter-Island?

A. I joined the "Mauna Loa" as chief engineer.

Q. You are working now for the Inter-Island?

A. Yes, sir.

Q. You are in what capacity?

A. As superintendent, superintending engineer.

[509—427]

Q. As such what are your duties, Mr. Muirhead?

A. General superintendent over the—all the machinery belonging to the company.

Q. That includes what?

A. The steamers and the outside work.

(Testimony of John Scott Muirhead.)

Q. The steamers and the outside work; what outside work?   A. Well, the coal-conveyor.

Q. Anything else?

A. That is about all the machinery they have.

Q. Does the Inter-Island run machine-shops?

A. Yes, sir.

Q. Who is in charge of them?

A. I am in charge of them.

Q. And how long have you been with the Inter-Island?   A. About eleven years.

Q. In this relation of superintending engineer?

A. Yes, sir.

Q. Now, Mr. Muirhead, do you know the plaintiff in this case, Mr. Ward?   A. Yes, sir.

Q. How long have you known him?

A. Oh, I should think, well, about the time they were erecting the Oahu Mill he happened to be down there about the same time as I was.

Q. Prior to this accident he was in the employ of the Inter-Island Steam Navigation Company, was he not?   A. Yes, sir.

Q. And how long had he been in that employment at the time of his accident—how long had he been in the employ of the Inter-Island Company before his accident?

A. From the first time he was employed, do you mean, in the Inter-Island?

Q. Yes.

A. Well, he was backward and forward on different occasions.

Q. Well, about how long is it since he first joined the Inter-Island?



(Testimony of John Scott Muirhead.)

A. Oh, I should say about ten years, ten or eleven years; it was shortly after I went there myself; I took him on.

Q. And then he worked off and on there?

A. Off and on. [510—428]

Q. Now, you are familiar with the coal-conveyor plant of the Inter-Island Steamship Company?

A. Yes, sir, I was there when it was erected.

Q. By whom was it erected?

A. By Mr. Ouderkirk; he done all the wood work and Mr. Ward he was under me there.

Q. Mr. Ward what?

A. Mr. Ward he was in charge of erecting of all the structural work.

Q. When you say he was under you, what do you mean? A. I put him there.

Q. You put him there? A. I put him there.

Q. And was the work done according to plans and specifications? A. It was, sir.

Q. And by whom were those given to Mr. Ward?

A. I got the plans from the—from Mr. Kennedy and turned them over to Mr. Ward.

Q. Had Mr. Johnson, formerly superintendent of the Inter-Island anything to do with the--

A. No, he had nothing to do with that whatever, sir.

Q. Now, can you remember how long ago it is since the coal-conveyor was erected?

A. Oh, I should fancy it is about five years or so, in that neighborhood. I have no dates.

Q. Now, the operations of that coal-conveyor were

(Testimony of John Scott Muirhead.)

—the plant was used for loading the Inter-Island vessels, was it not, and also for unloading foreign ships?   A. Yes, sir.

Q. Now, after the erection of the plant what, if any, connection had Mr. Ward with that coal-conveyor?

A. He had full charge when there was a vessel in discharging coal there, full charge over the plant entirely.

Q. Full charge over the plant?

A. Full charge of the plant entirely.

Q. Full charge of the plant entirely?

A. Yes, sir, entirely as an engineer. [511—429]

Q. What?   A. As an engineer.

Q. What was Mr. Ward's occupation and profession?   A. Engineer.

Q. When you say Mr. Ward had full charge of that coal plant—   A. Yes.

Q. That is on all occasions or when?

A. Beg pardon?

Q. Do you mean upon all occasions Mr. Ward had charge of the coal-conveyor plant, or when?

A. When there was a coal vessel discharging coal.

Q. And who put Mr. Ward in that position?

A. I did, sir.

Q. Under whose instructions?

A. For to put him in charge there, I had no special instructions from them, but I put him in charge there myself because he was familiar with the plant.

Q. Now, what were Mr. Ward's duties in connection with that plant when a coal ship would be in port

(Testimony of John Scott Muirhead.)

and discharging its cargo at the conveyor?

A. Well, his duties is there as an engineer to keep the plant in working order in case of a breakdown.

Q. And when you say the plant, what do you mean to include?

A. The whole of the conveyor, the whole of the coal plant.

Q. Do you mean the—

A. The engines, the line or anything of that kind. He had full charge; if anything was wrong he was there to make good any repairs.

Q. And when you say the line, to what do you refer?

A. I call this the line, when pulleys wear out the wire or anything of that kind.

Q. By the line, then, I understand you to mean the wire or cable upon which the cars run?

A. Yes, sir.

Q. Or by which the cars are drawn; that is right?

A. Yes.

Q. What authority, if any—oh, you have testified to that. About repairs, you say he had to do all repair work? A. Yes, sir. [512—430]

Q. To whom did the company look, Mr. Muirhead, for repairs being made, spares being required to be put in?

Objected to. Objection sustained.

Q. Who was responsible, Mr. Muirhead, for seeing that spares were put in when needed or general repair work down on the conveyor?

A. Mr. Ward was responsible to me.